

1969

## Volume 09 (Part 1 of 3)

Cuyahoga County Court of Common Pleas

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THE STATE OF OHIO, )  
 ) SS:  
COUNTY OF CUYAHOGA. )

27  
SATURDAY SESSION  
MAY 3, 1969  
McMONAGLE, J.

IN THE COURT OF COMMON PLEAS  
(Criminal Branch)

THE STATE OF OHIO, )  
 )  
Plaintiff )  
 )  
vs. )  
 )  
FRED AHMED EVANS, )  
 )  
Defendant )

No. 90,257

KF  
224  
E957  
1969



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SATURDAY MORNING SESSION, MAY 3, 1969 9:25 A.M.

---  
THE COURT: Be seated. Good morning.  
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THEREUPON, JOSEPH TURPIN, having been previously duly sworn, resumed the stand and testified further as follows:

THE COURT: Mr. Laurie.

MR. LAURIE: Thank you, Judge.

CROSS-EXAMINATION (CONTINUED)

BY MR. LAURIE:

Q Officer Turpin --

A Yes, sir.

Q I believe some of your testimony yesterday revealed about observing the police officers taking a photograph in your attic of certain items, you remember, on the floor?

A That's true.

Q I think you indicated they were clips -- that is gun bullet clips, is that what you meant when you say clips?

A That's true.

Q Some loose bullets, too?

A No, sir, all in the clip.

Q All in the clips?

A Yes, sir.



Q You observed the police officer taking this photograph?

A That's true.

Q And these items, the police photographed, were they your property?

A No, sir.

Q All right, and then, Officer Turpin, you also indicated that you had observed two of the individuals that you saw going down Lakeview as being dead at the Morgue, you remember?

A That is right.

Q And those were the two individuals that died behind the building that caught on fire?

A They were brought from back there.

Q Bernard Donald and James Taylor, is that right, sir?

A No, sir, Donald-Lathan.

Q Pardon?

A One of them is Donald.

Q The other was Mr. Taylor?

A I didn't know his name.

Q But you know those two were brought from behind 1395 to the Morgue, where you went and identified those men as having seen them earlier?

A Yes, I didn't know the other one; I just know his face.

MR. LAURIE:

Thank you.

THE WITNESS:

You are welcome.

REDIRECT EXAMINATION

BY MR. TOLLIVER:

Q Mr. Turpin --

A Yes, sir.

Q The persons -- first of all -- let me start again.  
Where are those exhibits?

THE COURT:  
going to start again?

MR. TOLLIVER: I think I am going  
to have to.

Q (By Mr. Tolliver) Mr. Turpin, these two exhibits  
that you gave, are these the only statements you gave?

A That's the only statements which I gave.

Q All right.

A And that top -- just a moment.

Q This is State's Exhibit 265.

A This here (indicating) this was added on this one here.  
That wasn't here when I finished that statement. This is my  
statement, starts with my name, starts here (indicating).

Q All right, now Mr. Turpin, at the time you gave these  
statements, you were asked by the police to come down and  
make a statement?

A That's true.

Q And that's what you did?

A I did just like they asked me.

Q When you gave the statement to Mr. Corrigan and Mr. Laurie and Sergeant Joyce, this was at 7:30 in the evening, is that right?

A That's the last time I was down, the last time I was down, wasn't anyone present but Detective Joyce, Mr. Corrigan and Mr. Laurie.

Q They asked you to come down and make a statement?

A That is right, they called my job.

Q You came down?

A I came down.

Q Nobody said you had to come or anything like that, did they?

A They said they wanted to see me downtown.

Q And you came?

A I came.

Q And you gave them the statement?

A I gave them that statement.

Q Now, Mr. Laurie asked you if you talked to Mr. Young or Mr. Fleming and you told him no.

A He asked me -- this is the way he asked me yesterday. His statement was this way -- did I talk with you or Mr. Fleming or Mr. Young while the jury was at my home. I told him no.

Q All right, now the first time that you talked to anybody about this case was to the police, is that right?

A That is right.

Q In your home and at the police station?

A That is right.

Q Is that right?

A That is right, I was called to come down to the Robbery Squad, and from Robbery Squad to another room.

Q Now, sometime after that, you had talked to the police and had given a statement?

A A statement.

Q I came by your house, did I not?

A You did, sir.

Q All right, tell the jury when was it that I came by your house?

A It was later, it was a couple of days or three days later. I can't recall what date, Mr. Tolliver.

Q All right, but it was after you had given your statement to the police, is that right?

A That is right.

Q Tell the jury what you told me at that particular time.

A When I was approached by the police, the same statement which I gave you, they want to know what happened after the man went in my home.

I say he knocked, wanted to come in and I refused to

let him in; and he noticed that my attic door was open and that's where he stayed until I got some response. I didn't get any response until this armored car blocked my drive.

Was I threatened? No, I wasn't threatened. I was treated as a man.

Q In fact, on State's Exhibit 256, you were asked, "Did you ever have any trouble with Fred Ahmed Evans," and your answer --

A I did not.

Q You answered no?

A That is right.

Q Never have had any trouble with him?

A No.

Q Is that right?

A No, I never has.

Q And you told them that on the 25th of July, didn't you?

A I told them from the first time I was called down until the last time I talked to Mr. Corrigan and also Mr. Laurie and Mr. Joyce, sitting right at the table.

Q All right, now when I came to your home to talk to you, did we talk about the time that Fred Ahmed Evans went up in your attic?

A We discussed how long he was there and I told you he

was in there between 8:00 and 8:15, up until 11:15.

Q All right, now calling your attention to State's Exhibit 257, you were specifically asked, were you not, by Mr. Corrigan "Question: How long was Evans in your home?"

A He was in there from 8:15 up until 11:15.

Q And you said, "From about 8:15 or 8:20" --

A No, that's where he added, that 8:20.

Q You said from 8:15 to 11:15?

A That's right, and I called his attention to that.

Q That's what you testified to yesterday, isn't it?

A That is right.

Q And you haven't seen this statement since you gave it to Mr. Corrigan until yesterday?

A No, but I did notice that 8:15 and that other time wasn't in there -- I said 8:15 till 11:15 and that's what he wrote in there, 8:20.

Q I understand, but what I am saying, after you gave Mr. Corrigan this statement on the 10th of April, when you testified yesterday, that Ahmed Evans was up in your attic from about 8:15 to 11:15?

A That is right.

Q You hadn't seen that statement until then?

A Hadn't seen it.

Q And when this statement was made, Mr. Corrigan asked you specifically how long he was up in the attic, is that right?

A And I explained to him how long he was there.

Q When you made this statement, which is referred to as State's Exhibit 256, did the police ask you at that time how long Mr. Evans was up in your attic?

A I gave them the same statement, between 8:15 up until 11:15.

Q All right, so whatever they asked you, you answered?

A I answered.

Q If that is not in this statement, it is because they didn't ask you, is that right?

A That is right, anything they asked me is in here. If they didn't ask me, it wasn't.

Q Now, at no time when Mr. Evans came into your house did you try to shield him from the police, did you?

A I didn't try to hide him.

Q He broke in, didn't he?

A He broke in.

Q You didn't invite him in, did you?

A No, they took a picture of my door.

Q That was broken?

A That was broken in, yes, a picture of my door.

Q When he came down and said he wanted to surrender, what

did you do?

A I called the police and I called directly to radio.

Q And you called them several times?

A 6 times -- 5 or 6 times -- and then I called my superintendent, which was Mr. Speights, and he called.

Q When you made your statement to the police, you told them that you had called them several times?

A That is right, true.

Q In order to get them to come to your house to arrest the defendant?

A That is right, he wanted to surrender.

Q And I believe you testified that the police even had coffee in your kitchen?

A They did.

Q You invited them in?

A I invited them in. I didn't have a thing in the world to hide.

Q They went in your attic and took these pictures?

A That is right, I followed them all the way through my house.

Q Mr. Turpin, in spite of the fact that you gave Mr. Corrigan a statement, that you gave the police several statements and in fact --

MR. LAURIE:

Objection.

THE COURT:

Go ahead with your



question.

Q (By Mr. Tolliver) Let me withdraw it. I will put it this way. You said you went to the Police Department, to the Robbery Squad, is that right?

A That's my first invitation, was to the Robbery Squad.

Q You talked to them?

A To Detective Garcia.

Q That's when you gave them this particular statement, Exhibit 256?

A Yes, that's my statement over there.

Q Then you had occasion to go to the Morgue, is that right?

A I did.

Q With the police?

A That is right.

Q And identify those bodies over there?

A That's true.

Q Then you had another occasion, I believe you said, to talk to the police or did you talk to the police after that?

A No, I continued to talk to the detectives.

Q How many times would you say you talked to the detectives?

A Roughly, I think I think I had been visited about 4 or 5 times.

Q With the detectives?

A Yes.

Q How many times did you have occasion to talk to Mr. Corrigan and Mr. Laurie and Detective Joyce or Sergeant Joyce?

A I talked with him, with the other detectives, but I talked to Mr. Corrigan one time.

Q I see, how many times with Mr. Laurie?

A Once.

Q You talked to Detective Sergeant Joyce how many times?

A He and Detective Gardia, I met them over in the Robbery Squad.

Q All right, so in spite of all these conversations you had with the Prosecutor and with the police, you were never subpoenaed by them to testify, is that right?

A No, sir.

Q The only subpoena you got was from Mr. Fleming?

A That's true.

MR. TOLLIVER: Judge, may we mark these also as Defendant's Exhibits so that it can be shown to be by agreement?

THE COURT:

You may do so.

(Defendant's Exhibits  
IIII and JJJJ marked  
for identification  
and received in evidence.)

Q (By Mr. Tolliver) Mr. Turpin, when you were talking to the police, did they ask you anything about the shooting of the tow truck and the tow truck driver?

A No, they asked me the question, which I was asked, and I explained to them where I worked when Donald -- I can explain it to you better on this thing (indicating).

Q Come right on over here, sir.

A You see, right up under this tree is two sections of sidewalk.

Q This is what you told the police?

A I was seated there.

Q This is what you told the police?

A Yes.

Q Go ahead.

A Two sections of sidewalk, I was seated there, right up under this tree. Now this side of the street was a man and on the other side there was the other fellow, Donald, and this fellow was on here (indicating), the tow truck was over here. Donald was over here (indicating).

When the two shots was fired, that's when I got up and went on down in my driveway.

Q Now, when you were talking to the police on that occasion or on those occasions, did you tell them that the persons you saw shooting was or was not the defendant?

A Was not Evans.

Q You told him that?

A I told them that I didn't see him fire anything. I just saw the two that are deceased.

Q And those are the ones you identified at the Morgue?

A That is right.

Q I see, you told the police that?

A I told them that.

Q Now, and when you were talking to Mr. Corrigan and Mr. Laurie, did they ask you whether or not that was Evans that you saw shooting at the tow truck?

A No, he didn't question me -- he didn't ask me who.

Q He didn't ask you that?

A No, the only thing he asked me was where was I seated when the two people come down the street, trotting like this (indicating) just like this, and I mentioned it to them.

Q But they didn't ask you who those two men were that you saw?

A No.

Q Take your seat, sir. At any time that Mr. Corrigan or the police asked you to talk to them or make a statement, have you ever refused?

A I never ha; refused; I cooperated with them 100 per cent. I gave a statement just like it happened and what I

seen and what happened to me as far as experience.

Q And Ahmed Evans, your testimony is, stayed up in your attic from about 8:15 until he was arrested?

A Until the armored car blocked my driveway; that's the only response I got from the Police Department.

Q That's what you told them?

A That's what I told him.

MR. TOLLIVER: You may have  
the witness.

RECROSS-EXAMINATION

BY MR. LAURIE:

Q Officer Turpin --

A Yes, sir.

Q Is it a fact that after you observed the shooting, as you now diagrammed it again on Beulah, and after you saw Mr. Evans jump over your back fence with this rifle, after all this is when he came into your house, is that correct?

A He came over my back fence, and a few minutes later he was in my home.

MR. LAURIE: All right, thank  
you.

MR. TOLLIVER: Nothing further,  
thank you so much, Officer Turpin.

(Witness excused.)

MR. FLEMING:  
moment, your Honor?

May we have a

THE COURT:

Yes.

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1.

✓

THEREUPON, ARTHUR REDEN, having been previously duly sworn, resumed the stand and testified further as follows:

REDIRECT EXAMINATION

MR. FLEMING:  
these as Exhibits, please?

Would you mark

(Defendant's Exhibits  
KKKK through TTTT  
marked for identification.)

BY MR. FLEMING:

Q Mr. Reden, I am showing you what has been marked for identification purposes as Defendant's Exhibits KKKKK through Quad T.

Would you look at those photographs?

A Yes.

Q Where were these pictures taken?

A At the Lakeview Tavern.

Q When were they taken?

A Yesterday.

Q Do these photographs fairly and accurately depict the Lakeview Tavern and the places and scenes depicted in these photographs as they existed on the 23rd of July, 1968?

A Yes, they do.

Q And do they fairly and accurately depict these scenes as they existed at that time?

A Yes, they do.

MR. FLEMING: We offer Defendant's Quad K through Quad T into evidence, your Honor.

MR. CORRIGAN: No objection.

THE COURT: They will be admitted.

(Defendant's Exhibits KKKK through TTTT, inclusive, received in evidence.)

MR. FLEMING: Step down, sir.

MR. CORRIGAN: We may have some questions of this witness.

THE COURT: You may have the questions -- I didn't know whether you wanted to question before we admitted exhibits.

MR. LAURIE: May we see the pictures again, please?

MR. FLEMING: Sure. I didn't mean for him to leave. I wanted to bring him with them in front of the jury.

MR. LAURIE: Oh.

MR. FLEMING: They are in evidence.



THE COURT:

Proceed.

MR. FLEMING:

Thank you.

Q (By Mr. Fleming) I think Exhibit KKKK is the first one and it goes right in line. Now giving you Defendant's Exhibit KKKK, will you tell the Court and jury what that is?

A This is the back part that went into the basement where we were on July 23rd.

THE COURT:

I'm sorry, I couldn't hear you.

THE WITNESS:

This is the exhibit that enters into the basement where we were.

THE COURT:

A photograph of the stairway looking down, is that it?

THE WITNESS:

Yes, sir.

Q (By Mr. Fleming) Bring it over here, so everybody can see it. Bring it a little closer and start over there at the end and come all the way over, so everybody can see it.

Now, is this the stairway that you referred to in your testimony yesterday?

A Yes.

Q Can you see the place where the bullet is in the wall or where the hole was in this picture?

A Here it is.

Q Will you point that place out and show the jury all the way down?

A (Witness indicates).

THE COURT: Let me see what  
you're pointing out, Mr. Reden.

(Witness indicates to the Court.)

Q (By Mr. Fleming) Now, is that the place where the  
agents from the Federal Bureau of Investigation removed the  
bullet in your presence?

A Yes, it is.

MR. LAURIE: Objection.

THE COURT: Overruled.

Q (By Mr. Fleming) And were you present when this photo-  
graph was taken of that position?

A Yes, I was.

Q And did you point that place out to the photographer?

A Yes, I did.

Q Now, showing you Defendant's Exhibit LLLL, will you  
tell the jury what that is?

A This is the back part of the basement, where I was  
standing at the window, listening to the policemen's  
abusive language, right here (indicating).

Q Show us where you were.

A Standing right here, where the ladder is, right here  
(indicating).

Q That's the place you testified you were standing  
when you heard the police upstairs?

A Yes.

Q Using this language?

A Yes.

Q Will you show the Court, the Judge?—

(Witness indicates to the Court.)

Q (By Mr. Fleming) Now, when you were standing in that position, who was there with you, all the people there or were you there alone?

A Mr. Trenton was in there and John was in there too, and they got afraid they were going to penetrate into the wall.

Q I am showing you Defendant's Exhibit MMM, I believe that's another scene showing the stairway, is that correct?

A It is.

Q Is there a place depicted in that photograph that shows where the bullet was that you observed the FBI take out?

MR. LAURIE:

Objection.

THE COURT:

Overruled.

THE WITNESS:

It was here

(indicating).

MR. FLEMING:

Come all the way over here and show them, all the way down.

(Witness indicates to the jury and Court.)

MR. FLEMING:

I am showing you

Defendant's Exhibit NNNN. Will you tell the Court and jury what that photograph depicts?

A This is where the bullet ricocheted off the wall and hit Mr. Pegues, right here, that I am pointing at.

(Witness indicates to the jury and to the Court.)

Q (By Mr. Fleming) I'm showing you Defendant's Exhibit 0000. Will you tell the Court and jury what that is?

A This is where, after Mr. Pegues was shot, we all ran in here (indicating) back in this, that's the men's room. That's when the police shot the tear gas in.

Q Is that the men's room or the ladies' room?

A That's the men's room.

(Witness indicates to the jury and to the Court.)

Q (By Mr. Fleming) Showing you Defendant's Exhibit PPPP, will you tell the Court and jury what that is?

A These are the windows upstairs.

THE COURT: Turn, when you first answer and face the jury and speak loud enough. The young lady hasn't been able to hear you.

THE WITNESS: This is the window that is on the side, the ledge where we looked out, on either side.

Q (By Mr. Fleming) Will you tell us when you look out of these windows, depicted on here, what do you see, what

is that --

A You see the buildings over there (indicating).

Q On what street, Abburndale or Lakeview?

A Auburndale, and out these windows (indicating) you see Lakeview.

Q That's the front windows there?

A Yes.

Q Now, you point out to the Court and jury the window you went to when you told us yesterday that you went to the window and observed this activity.

What window was it that you went to?

A The one I'm standing behind right here (indicating).

Q Showing you Defendant's Exhibit QQQQ, tell the Court and jury what that is.

A This is the hole the police shot in the basement, and that's where the FBI took the bullet out.

Q Defendant's Exhibit RRRR. Tell the Court and jury what that is.

A This is the outside of the Lakeview Tavern.

Q And is this an outside view of those windows, that front on Auburndale?

A That is right, an outside view of the windows on Auburndale (indicating).

Q (By Mr. Fleming) Defendant's Exhibit SSSS!

A This is the stairway coming up from the basement.

This is where the police hit me in the head, right there on the top of those steps (indicating).

Q Defendant's Exhibit TTTT.

A This is the same view as shown in the others, on the Auburndale side. This is the store front. This is the grocery store right here (indicating).

Q Where is that grocery store, on Lakeview?

A No, on Auburndale.

Q All right.

A (Witness indicates).

THE COURT: Let me see it,

Mr. Reden.

(Whereupon the witness indicates to the Court.)

MR. LAURIE: May I see that picture, please?

(Whereupon the witness indicates to the Prosecutor.)

MR. LAURIE: Thank you.

MR. FLEMING: You may take the stand.

Q And you were with the photographer when he took these pictures yesterday, is that correct?

A Yes, I was.

Q And these scenes are depicted as they existed on the

23rd, except that the bullet has been removed by the FBI?

A Yes, it is.

MR. TOLLIVER:

You may inquire.

RECROSS-EXAMINATIONBY MR. LAURIE:

Q Sir, do you work five days a week?

A I work six days a week.

Q Saturdays, too?

A Sure.

Q And yesterday, you say, these photographs were taken?

A Yes, they were.

Q Yesterday was Friday?

A Yes, it was.

Q Did you take off from work to go see that these photographs were taken?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

A I was subpoenaed to go, sir.

Q Fine. But I am saying, yesterday, did you take off work to go take these photographs?

MR. FLEMING:

Objection.

THE COURT:

Well, I think he was earlier, wasn't he?

MR. LAURIE:

Yes.

Q (By Mr. Laurie) But I mean, you didn't go back to work; you went out to take these photographs, yesterday?



A Yes, I did.

Q And did you go and obtain the photographer?

A No, I did not.

Q When you went to take -- you expected to go and help take these photographs, or what?

MR. FLEMING:

Objection.

THE COURT:

Was there somebody

else with you, on the defense side?

THE WITNESS:

Mr. Young was.

Q (By Mr. Laurie) Mr. Young?

A Yes.

Q Then you proceeded to go directly to the bar, or did you stop at the photographer's office and pick up a photographer?

A Mr. Young went and got a photographer.

Q I see, and you met him at the bar?

A No, we left from here.

Q You went together to pick up a photographer?

A We picked up the photographer right down on 21st Street.

Q Then you went out to the bar and cooperated in getting these pictures taken?

A Yes, sir.

Q I see. All right, now, I believe that yesterday you had no recollection whatsoever about the distance from

the top of the stairs to the bottom of the stairs, so you were back there at the bar yesterday, is that right?

A That is right.

Q And you went all over the bar and took various locations and shots, photographs of these various locations; is that right?

A That is right.

Q In fact, you took two or three, going down the stairs, a view going down the stairs, and a couple downstairs, and so forth.

I am showing you State's Exhibit KKKK --

MR. TOLLIVER: That's Defendant's Exhibit.

MR. LAURIE: I mean, Defendant's Exhibit -- I'm sorry.

Q (By Mr. Laurie) This is a photograph looking down the stairs, is that right, sir?

A Yes.

Q You had an opportunity yesterday to observe the distance. What would you say the distance is from the top to the bottom of those stairs?

A On, about 15 foot.

Q 15 feet. And yesterday you testified that John was shot, I think, going up the stairs, or he was on top of the stairs, or where was he?

A Mr. Pegues got shot when the bullet ricocheted off the wall.

Q You saw the bullet ricochet off the wall?

A When the bullet hit there, it ricocheted.

Q Could you see the bullet traveling and ricochet, hitting John?

A No, I could not.

Q How do you know he got hit by the blast?  
How do you know it ricocheted?

A It had to.

Q You couldn't see the velocity of this bullet, when it hit the wall, and where it went to?

A No, I could not.

Q Then you don't know it ricocheted off the wall?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

Q (By Mr. Laurie) Right, sir?

A That is right.

Q Now, you talked about bullets, and yesterday you indicated to the jury that the F. B. I. agent pulled out a partial shotgun pellet from the wall?

Do you recall?

A That is right.

Q So, what is a partial shotgun pellet, as opposed to a bullet?

A It was a shotgun pellet.

Q All right, sir. And when John was at the bottom of the stairs, on Exhibit KKKK here, were you next to him?

A I was standing right here (indicating).

Q For the jury, you say you were standing on the steps?

A No, I was standing underneath the steps.

Q You were standing on the side of the --

A Right there (indicating).

Q There is an opening there? Right?

A Sure.

Q Well, from the top you can see an opening where the side of the steps went down to the floor, is that right?

A That is right.

Q And you were standing right there?

A Yes.

Q In other words, you were closer to the top than John was to the top?

A I seen Mr. Pegues was getting ready to come out of the basement, he was ready to come out, and this is when they shot down in the basement.

Q But you just told me that he was standing right here (indicating)?

A No, I didn't say he was standing there. He was

standing over here (indicating).

Q He was standing next to you?

A No, he was standing over here (indicating). He was standing at an angle, right here (indicating).

Q So the jury can see --

A I was standing right here (indicating).

Q He was standing there (indicating). And when he was standing right next to you --

A No. Mr. Pegues was standing over here (indicating) and I was standing there (indicating).

Q All right. So, in other words, he was further away from the top of the stairs than you were when this blast went on?

A Yes, he was further away from the top of the stairs than I was, sure.

Q Yes. All right. And, incidentally, this wall where you are pointing at, the closeup of that hole in the wall -- that's brick, isn't it?

A Sure.

Q Foundation, as opposed to cement block; that's brick?

A That's brick.

Q Thank you. Now, this other photograph, Defendant's Exhibit RRRR, is a picture of the east side of the tavern, the two windows, is that right, sir?

A That is right.

Q This big tree here in the pictures is in front of 12312 Auburndale; is that right, sir?

A Right.

Q And this iron picket fence is in front of 12312, is that right, sir?

A That is right.

Q And these holes on the side of the building, of the bar, those are bullet holes there, aren't they?

A I suppose they are.

Q And then, when the firing that particular night, from the snipers, from 12312 -- they were firing into that bar, weren't they?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Is this something you know, yourself?

THE WITNESS: I don't know nothing about that. The only thing I know, when the bullets started coming into the bar, we fell to the floor. I don't know who was shooting.

Q (By Mr. Laurie) But you saw some bullets coming from--

A No, I didn't see no bullets coming. I saw the holes in the wall.

Q And this is on the east side of the bar? Am I right?

A That is right.

Q All right, it has been testified to here that this bar had side doors and doors that went upstairs to some suites. Do you remember -- do you know that?

A Yes, sir.

Q But these pictures, none of these pictures show the side door or the doors that go up to the suites?

Am I right, sir -- none of these pictures?

A No, they don't.

MR. LAURIE:

All right.

Thank you, gentlemen.

MR. FLEMING:

You're welcome.

MR. LAURIE:

That's all I have,

Judge.

MR. FLEMING:

Thank you,

Mr. Reden.

THE COURT:

You are excused.

(Witness excused.)

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MR. FLEMING:

Donald Brown.

- - -

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness DONALD BROWN, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Brown, will you state your full name to the Court, and spell your last name, please.

A Donald Brown.

Q Speak louder than that.

A Donald Brown.

Q Where do you live, Mr. Brown?

A 12913 Angelus.

Q A little louder.

A 12913 Angelus.

Q All right, and are you married, sir, or single?

A Married.

Q What is your occupation?

A I operate a delicatessen and beverage store.

Q You are the owner of that business?

A My wife and I.

Q You and your wife?

A Yes.



Q Now, calling your attention to the 23rd of July, 1968, did you have occasion to visit the Lakeview Tavern that day?

A I stopped in there, yes.

Q About what time of day or night was it when you went there?

A In the evening, I forget what time it was.

Q The late evening?

THE COURT:

Please keep your

voice up. The jury can't hear you at all.

A In the late evening.

Q (By Mr. Fleming) Who was with you, if anyone?

A My brother.

Q What is his name?

A Arthur Brown.

Q How many people were in the Lakeview Tavern at the time you went there?

A I would say, I imagine, twelve or thirteen.

Q And while you were there, did something unusual happen?

A Yes, it did.

Q Will you tell the Court and jury what happened?

A Well, there was shooting, all that shooting, and we all went to the basement.

Q All of you went to the basement?

A Yes.

THE COURT: Mr. Brown, make an added effort to keep your voice up. Your voice just doesn't carry.

Q (By Mr. Fleming) If you speak loud enough for me to hear you, then everybody can hear you.

Okay, all of you went to the basement; is that right?

A That is right.

Q How long did you remain in the basement?

A Oh, we was down there quite a while, I guess, around 12:00 or 1:00 o'clock, I guess, something like that.

Q Did there come a time when the police came in the basement?

A Yes.

Q Just tell us in your own words everything that happened that night while you were in the Lakeview Tavern.

A Well, we was all huddled in the corner of the basement when the police came in and threw the tear gas in there and told us all to come up with our hands up.

Q Did you go up?

A Yes.

Q What happened, if anything happened, after you went up?

A I know what happened after I was outside.

MR. LAURIE:  
Judge.

I didn't hear that,

A After we come upstairs, they put us in the wagon, and I know, after we got to the Fifth Precinct, I was banged up quite a bit. My head was (indicating).

MR. LAURIE:

I can't hear you.

THE COURT:

Mr. Brown, you start out fairly well and then your voice drops down and it is difficult for me to hear you.

A After we come out of the basement, they put us in a patrol car, and I don't know what happened. I know I got banged up pretty bad.

Q (By Mr. Fleming) When you say "banged up," did somebody beat you?

A Yes, someone did. I don't know who.

Q Now, tell us, were you knocked unconscious?

A Yes. I was dazed, yes.

Q And when you regained your consciousness, where were you?

A Well, I was at the Fifth Precinct.

Q And where at the Fifth Precinct? Were you in a cell or in a room or where?

A In a cell.

Q In a cell?

A Yes.

Q And were other people in the cell with you?

A Yes.

Q Now, were you later taken to the hospital?

A Yes.

Q As a result of what happened to you, whatever it was?

A Yes, taken to the hospital.

Q And what was your condition?

A I had three broken ribs and (indicating) -- a thing on my eye, my eye was broke open, and my pants slit off, and also shoes, and my watch was broken, and some money was gone.

Q How long were you laid up as a result of what happened to you?

A I was at home for about two or three weeks.

Q What is your condition now?

A I am in fair condition; I have asthma, that's all.

Q Did you make a statement to anybody about what happened to you out there?

A Yes.

Q When was the first time you told anybody about it?

A I went to the N. A. A. C. P., I guess, the next day or so.

Q Did you talk to anybody else about it?

A Yes.

Q Who else?

A I talked to the F. B. I.

Q And how long after this happened to you was it that you talked to the Federal Bureau of Investigation?

A They came to my house, I guess, a week or so later, something like that.

MR. FLEMING:

You may inquire.

CROSS-EXAMINATION

BY MR. LAURIE:

Q Did you tell those people the same thing you are testifying to in court today, about what happened?

A Yes.

MR. LAURIE:

That's all, Judge.

THE COURT:

Any further questions?

MR. FLEMING:

Is it

REDIRECT EXAMINATION

BY MR. FLEMING:

Q Is it my understanding that you don't know who hit you?

A No, it was dark and I couldn't see. It was dark outside.

Q Well, who had you --

MR. LAURIE:

Objection.

THE COURT:

Overruled.

A I was in police custody.

MR. FLEMING:

Nothing further.

THE COURT:

You are excused.

(Witness excused.)

---

MR. TOLLIVER:

Call Mr. Reed.

---

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness ALFRED REED, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TOLLIVER:

Q Will you state your name and address to the Court, please?

A Alfred Reed. I live at 1417 Lakeview, downstairs.

MR. LAURIE: I'm sorry,  
Judge, I didn't get it.

THE COURT: He said Alfred  
Reed, 1417 Lakeview, downstairs. Keep your voice  
up.

Q (By Mr. Tolliver) Are you married or single, Mr. Reed?

A Married.

Q Spell your last name.

A R-e-e-d.

Q And do you have any children?

A Yes, I have three.

Q Are you employed?

A Yes.

Q Where?

A Bailey's Meter Company.

Q How long have you been employed there?

A It will be 6 years in July.

Q Would you step down, just a minute, Mr. Reed? Come down to the map. You stand right over there and take this pointer.

This is a map of the Lakeview area, and Auburndale, Moulton and Beulah, and you live on Lakeview?

A Yes.

Q Can you see your house there? This is the Lakeview Tavern over here (indicating).

A This is the Lakeview Tavern?

Q Yes.

A This is my house.

Q You live right here?

A Yes (indicating).

Q Were you living there on the 23rd of July?

A Yes, I was.

Q Resume the stand. Now, you were living at that address on the 23rd of July?

A Yes.

Q Who lived upstairs over you?

A James Chapman.

Q James Chapman?

A Yes.

Q And did you know James Chapman?



A Yes, I did.

Q Did he have any children?

A Yes, he had one.

Q He was married?

A Yes.

Q And he and his wife and child lived upstairs?

A Right.

Q Did anything unusual happen on the 23rd day of July?

A Yes.

Q All right, tell the Court and jury what you saw and what happened that day?

A Well, I got home from work at 7 o'clock, and I was sitting in the house at the time and I heard some shooting.

Q Speak up.

A I heard some shooting.

Q You got home at what time?

A 7 o'clock.

Q Go ahead.

A So I looked out the window and I can see Detective's car was parked right there on Moulton.

MR. LAURIE:

Can't hear.

THE WITNESS:

It was parked on

Moulton, there by the cleaners.

Q (By Mr. Tolliver) A detective's car was parked on Moulton?

A Yes.

Q Just a moment. This is Moulton (indicating)?

A Right.

Q So where was that detective's car parked?

A Right there where your finger is, almost.

Q A detective's car?

A Yes.

Q How do you know it was a detective's car?

A Well, I can tell them; I just know them.

Q All right. go ahead.

A Well, he stayed and wait, so we all look out the window, so all of a sudden police was everywhere, and I could see the other police laying on the ground, you know, bawling like -- like he was shot or something, and then this other fellow fell out in the middle of the street, and he was trying to get up on my porch, so I let him in my house; so we all stand still, looking out the window, and this one policeman by the cleaners ---

Q What?

A One policeman by the cleaners.

Q Just a moment, you say there was another policeman by the cleaners?

A Right.

Q Is this the cleaners, right here (indicating)?

A Yes, right where the police car, that's where that was.

Q In front?

A No, on the side.

Q On the Moulton side?

A Yes, so I am looking at him and he is trying to peep around the corner, and I could see him falling down and squatting down and falling back, like he was trying to get out of the way or something.

Q You mean the policeman was?

A Yes.

Q Right on the corner?

A Yes, and I could see him look my way and pointing his gun and shooting and come through my doorway.

Q He shot into your house?

A Yes, right.

Q In here?

A Yes.

Q And was there anyone shooting from your house?

A No, there wasn't.

Q Who was in your house at the time, that time?

A Me and my wife and my kids and my sister-in-law and her two kids and a friend of mine and his one kid and her husband and my brother and another friend, and the fellow I told you was trying to get off the street. ✓

Q So no one had any guns in there, did they?

A No.

Q No one shooting from your house?

A No.

Q But the police shot in your house?

A Yes, they did.

Q Tell us what happened.

A After the bullet come through the house, I had already sent my wife and kids and the other womens down in the basement, and we was going to be nosy and see what happened, but after the bullet came through, we went to the basement, too, so we laid on the floor until 1 o'clock, and things quiet down.

We come upstairs and we had to come up because the tear gas came through from the house next door, it was getting in the basement and my wife was pregnant.

Q They didn't throw any tear gas in your house?

A No, but it was coming through the basement.

Q From the next house?

A Yes.

Q What did you next see?

A A we come out on the porch, my brother was trying to see if he could ask the police could he bring the car back down. They had pushed it down where the other house burned up at, and at this time, I could hear them saying someone wanted to give themselves up. I don't know exactly who it was, but they wanted to give himself up to the policemen

and they gave the address. I don't know exactly what the address was.

Q This is conversation you heard by the police?

A Yes, I could hear the police talking to the others.

Q All right, go ahead.

A And at the same time, I could see Chapman's car parked right in front of the bar, in front of the street.

Q Just a minute, you are talking about Mr. Chapman's car?

A Right.

Q His car was parked, you say, by the bar?

A In the middle of the street there.

Q Out here (indicating)?

A Right.

Q Go ahead.

A And then I could see the police, you know, already in the bar, and the police wagon was still on the side of the bar, and I could still see them give one more person a shove up into the wagon.

Q They were putting people in the wagon?

A Yes.

Q Where was the wagon?

A Right by the mailbox.

Q This is the mailbox?

A Yes.

Q This is where the wagon was parked?

A Yes.

Q They were putting people in the wagon?

A I could see them putting the last person in the wagon.

Q Go ahead.

A I could see the police come out of the bar with some boxes.

Q Coming out of the bar with some boxes?

A Right, some boxes, and putting them in the police car, and then I could see them coming out individually, with bottles in their hands, drinking from them, and then setting them down. A couple of them leaned against the car and leaning up against the building, and then, after all this came up, we went out and looked to see what they was and they were half-filled beer bottles, quart-size.

Q You saw this?

A Yes, I seen this.

MR. TOLLIVER:  
witness.

You may have the

MR. LAURIE:

Sure would.

CROSS-EXAMINATION

BY MR. LAURIE:

Q Mr. Reed --

A Yes.

Q -- you say you are married, what is your wife's name?

A Geneva.

Q How many children do you have?

A Three.

Q How old are they?

A I have one 6, one 5 and one is just born in September.

Q How long have you been married?

A I've been married to Geneva since July.

Q Since July of this year or last year?

A Right.

Q And are these children of some other marriage?

A The first two are, yes.

Q Pardon?

A The first two are, yes, sir.

Q The first two are?

A Yes.

Q And do you have any other children?

A No.

Q Do you have a daughter by the name of Louise?

A No.

Q Louise Brown?

A No, I don't.

Q You don't have a daughter called Louise Brown?

A Pamela, Alfreda and Letitia Reed -- I have three daughters.

Q We had a witness here by the name of Louise Brown that said her father lived in this house which you pointed out was your house.

A Right.



Q On July 23rd and her name was Brown. She took her mother's name and her father's name was Reed.

A Well ---

Q Are you the father of Louise?

A No, I am not.

Q You are not?

A No.

Q Were you married to Louise's mother?

A No, I am not.

Q Were you?

A No, I am not.

Q You were never married to Mrs. Brown?

A No. Can I tell you who she is thinking of?

A No, just answer my questions, if you will, sir.

THE COURT: Go ahead, ask your questions, Mr. Laurie.

MR. LAURIE: Somehow or other, your Honor, I feel I am not in a first-degree murder case.

Q (By Mr. Laurie) Where did you say you worked, Bailey what?

THE COURT: Bailey Meter, M-e-t-e-r.

Q (By Mr. Laurie) How long have you worked there?

A 6 years in July.

Q Have you ever been convicted of a State or Federal offense?

A No.

Q Pardon?

A No.

Q And you indicated you came home from work about 7 o'clock that night?

A Right.

Q And your house was -- there were a number of people in your home, is that right?

A Yes.

Q Besides your family, who were the outsiders in your home?

A Friends of mine.

Q What were their names?

A Louise Sullivan and his wife.

Q All right.

A And his two babies.

Q All right.

A My sister-in-law and her two babies; my brother and another fellow named William Yates.

Q Was there a special occasion why they were all there?

A No, we always gather at my home.

Q This was a usual thing?

A Yes.

Q Was there some levity by way of drinking or eating there between any of you?

A No, I just got home.

Q You had just gotten home?

A Yes.

Q After you came home, did you indulge in some drinking or social drinking with them?

A No, half of them got there when this thing started to happen, they came to my house to get out of this.

Q Half of them got there when this thing started?

A Yes.

Q What time did this thing get started, before 7 o'clock?

A About 7 o'clock.

Q About 7 o'clock?

A Yes.

Q So they came there for --

A For shelter.

Q For shelter, because there was bullets flying in the street at 7 o'clock, is that right?

A No, this is when they first -- first, when I get home, my sister-in-law and the other fellow and his wife and kids was there.

William Yates and this other fellow I am telling you about -- I don't know his name -- they come after it started.

Q All right, then it was an unusual situation that they came in there for, or was it a usual thing? You said they were getting away from danger and they came to your house for shelter.

A Well, William Yates and this other fellow did.

Q They were getting away from the danger of bullets, then, is that right?

A Right.

Q All right, and where did they live, these people that came there for shelter?

A William Yates live on 125th around Arlington.

Q 125th and what?

A Around Arlington.

Q Around Arlington?

A Yes.

Q How far from Aburndale and Lakeview is that?

A Well, that's pretty close to St. Clair.

Q Pretty close to St. Clair, and where did the other party live that came there to get away from danger?

A The party that was getting away from danger?

Q Right.

A I don't know his name or where he stayed..

Q I see, and you say how soon after you got in your home did he -- did you give him protection?

A 10 minutes.

Q 10 minutes, all right, about 7:10, then. Was it one person or more than one person that you asked to come in the house?

A Just one.

Q The one man, was he a colored gentleman or a white gentleman?

A Colored.

Q A colored man?

A Right.

Q All right, did you ask him his name, when he came in?

A No.

Q Did you ask him where he lived?

A No.

Q Did he have a dashiki on?

A A who?

Q A dashiki?

A Who?

Q How long did you live on Auburndale and Lakeview?

A I stayed on Auburndale and Lakeview since April.

Q April of last year?

A Yes.

Q Did you see any Black Nationalists around that corner?

A Who?

Q Black Nationalists? Ever heard the name?

A I have heard of them.

Q All right, and are you familiar that Black Nationalists, at least some of them, wear dashikis?

A These gowns?

Q Yes, these gowns.

A That is what you're speaking of?

Q And one man, who is sitting right here with the green and red trimmaing, is that the dashiki that you know of?

A Well, I don't know its name. I have seen them.

Q I am talking about the clothing -- we will get to his name a little later.

A I am talking about the clothing. I don't know the clothing by the names you are saying.

Q Is this the type of clothing or something similar to that, that this man came in your house was wearing?

A No.

Q Did he have bandoleers on?

A No.

Q Did he have a rifle on him?

A No.

Q When you asked him to come in your house, where were you when you asked him to come in your house?

A Standing in my doorway.

Q Standing in your doorway?

A Yes.

Q You heard the shots and you were looking out?

A Right.

Q Pardon?

A Right.

Q And shots were coming from 12312, across the street from you?

A No.

Q Well, your doorway faces Auburndale, doesn't it?

A No.

Q Your doorway?

A My doorway faces Lakeview.

Q Faces Lakeview?

A Right.

Q You don't have a doorway on Auburndale?

A No.

Q Isn't there a garage right behind your house?

A There is a back door.

Q Isn't there a door right next the garage?

A It doesn't face Auburndale.

Q Does it face Auburndale?

A If it faces Auburndale, it would be on the side of the house. This is in the back of the house.

Q The door right next to the garage, what street does that door lead into?

A It leads into Auburndale.

Q It is around the corner? Am I right, then -- Lakeview?

A Yes.

Q And you were at the front door, as opposed to the door that leads into Auburndale, is that right?

A I was at the front door, yes.

Q And you were at the front door before this man came in view of your home?—

A No. Where we seen the man fall, between the cars, I opened the door and told him he could come on in here if he wanted to.

Q You seen policemen falling between cars?

A No, the man.

Q This man?

A The one that come in my house.

Q I see. Was he drunk?

A No, he waen't; he was trying to get out of the way.



Q Get out of the way from what?

A He slipped between the cars, trying to get up on somebody's house, I believe. I told him he could come into mine.

Q What was he getting out of the way of, at ten minutes after 7:00?

A People were shooting.

Q Colored people?

A Polices.

Q Where were these police shooting?

A I don't know at that moment where they were shooting.

Q How do you know it was the police officers shooting?

A I beg your pardon?

Q How do you know it was police officers shooting?

A I was looking at them.

Q Where were these police officers?

A On the corner, by the bar, and one in front of my house.

Q Shooting at this man?

A After the man got in my house.

Q I am talking about before he got into your house, sir, where were these policemen standing when they were shooting?

A Policemen by the bar.

Q By the Lakeview Tavern?

A Yes.

Q One policeman there?

A No.

Q How many?

A A few of them, I don't know exactly how many.

Q Three of them?

A I don't know exactly how many.

Q Three police officers?

A I didn't count them.

Q Did you use the word "three" or not?

A I seen a few of them.

Q A few. And what type of weapons were they using?

A I don't know. I didn't look to see what kind.

What I seen looked like shotguns. I couldn't see -- or some kind of a rifle. I'm not familiar with rifles.

Q And you say they were shooting after this man?

A No, I am telling you this man was trying to get out of the way.

Q Oh. In what direction were the officers shooting, then, at the time this man, at 7:10, was trying to get out of the way?

A Well, it looked to me, they were trying to shoot from down the street, past my house, going on down Lakeview.

Q Down Lakeview? You mean, north?

A Like going towards Superior.

Q Towards Superior?

A Yes.

Q Were they shooting after an automobile going north?

A I don't know.

Q You don't know what they were shooting at?

A No.

Q Then this man came into your house, and you say he had no weapons?

A No, he didn't.

Q All right, and then when he came into your house, where were the other guests and your family at the time?

A My wife and other womens and the kids was in the basement; the rest of the fellows was upstairs, trying to be nosy and see what is happening.

Q Now, the womenfolk and the kids went to the basement?

A Yes.

Q When this man came in?

A When the shooting first started.

Q Before 7:10, before this man came in, you sent the women and children to the basement; is that right?

A Just before the man came in.

Q I see. And so then, sometime before ten minutes after 7:00, you sent the women and children in the basement because of the shooting.

And who remained upstairs?

A      Myself, William Yates, and my brother, and Louis Register, and this fellow.

Q      As far as the men were concerned, they were not in fear, then?

A      At that time, no.

Q      I see. And when the man, this man came in, how long did he stay in your house?

A      He stayed in my house until 1:00 o'clock.

Q      From 7:10 until 1:00 o'clock approximately?

A      Right.

Q      And you never learned his name?

A      No.

Q      What did he do from 7:10 until 1:00 a.m. in the morning, in your home?

A      Laid on the basement floor, mainly.

Q      He laid on the basement floor?

A      We all did.

Q      Well, now, let's go back, then, when he came to the house, you say the menfolks were upstairs?

A      Right.

Q      When did you go in the basement?

A      When the police shot in my window.

Q      When was that, in relation to after the man came in your house?

A      A few minutes.

Q Pardon?

A A few minutes later.

Q So that would be about 7:10 - 7:13 or :14, something like that?

A I really couldn't tell you. I didn't have no watch.

Q A few minutes after the man came in?

A Right.

Q Then all of you went to the basement?

A Right.

Q Then all of you stayed in the basement until 1:00 o'clock?

A That is right.

Q Am I right?

A Yes.

Q Then, it is fair to assume, sir, from approximately 7:15 to 1:00 a.m., you don't know what happened?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

A That is right.

Q (By Mr. Laurie) Am I right, you don't know what happened outside after you went to the basement?

A All I know what happened outside is what I heard.

Q You didn't see anything?

A Until I got out of the basement.

Q My question, sir: Is it fair to assume from your testimony from about 7:15 or even 7:20 until 1:00 o'clock in the morning, inasmuch as you said you spent the time in the basement --

A Right.

Q -- you don't know what went on outside, by your own visual actions?

A Not visually, no.

Q Well, now, we will get to the sounds. Now, you heard shooting, is that right?

A Right.

Q Were you still in the basement?

A Right.

Q Could you tell from what direction you heard the shooting coming from, where you were?

A Sounded like coming from by the bar.

Q By the bar?

A Right.

Q And also east of the bar?

A It sounded like it was on the other side of my house, sounded like it was in the back of the house, and sounded like it was right on my porch.

I could hear rumblings on my porch.

Q None of you folks got hurt?

A No.

Q Or your friends there, at the time?

A No.

Q Where was Mr. Chapman at that time? Was he home?

A I don't know.

Q Was Mrs. Chapman home?

A No.

Q How long have you known Mr. Chapman?

A I have been knowing him quite a while.

Q He was sort of a neat-dressing man, wasn't he?

A Right.

Q He dressed in very cleanlike clothes and nice-looking shirt, whatever?

A That is right.

Q He was a kind gentleman, wasn't he?

A That is right.

Q He was well liked by others?

A That is right.

Q He was very helpful to people at times?

A Right.

Q All right, and he was a good family man, wasn't he, sir, as far as you know?

A As far as I know.

Q All right, come 1:00 o'clock.

Now, when you said you pulled yourself up and went outside, it would be about 1:00 o'clock, is that right?

A Right.

Q Now, at this time, the street lights were all shot out, weren't they?

A The street lights?

Q Yes.

A Yes.

Q It was pitch dark outside, wasn't it?

A It was dark, yes.

Q Pardon?

A It was dark, yes.

Q It was after midnight? 1:00 o'clock would be after midnight?

A Yes. It was dark, yes.

Q And there was a lot of action north of you, wasn't there, because a house burned down, wasn't there?

A Yes, that gave off a lot of light.

Q Sure it did. And then you say you saw some action at the front of the Lakeview Tavern, isn't that right?

A Yes.

Q Now, this had to be some time after 1:00 o'clock, because that's when you got out from down in the basement?

A Yes, 1:00 o'clock when I came out of the basement.

Q After 1:00 o'clock, now, after 1:00 o'clock, sir, where did you go outside when you went outside?

A On my porch.



Q On your porch? This is the Lakeview porch, not the steps way at the side door?

A Lakeview.

Q Who was there with you?

A Everybody that was in the house.

Q Everybody was on the porch, including the stranger that came in your home?

A That is right.

Q He was still there?

A That is right.

Q Could you describe this man to us, how he appeared to you?

A Well, he was an elderly person, I would say, in his late forties maybe, and about your size and height.

Q How about my weight?

A Your size.

Q How about my weight?

A Yes.

Q And when you observed the corner of Lakeview and Auburndale area, did you see some police officers take some weapons and long cardboard boxes out of 12312, sir?

A I seen them bringing some cartons or something. I don't know what was in them.

Q You saw them take out some weapons from that home, too?

A No, I didn't see that.

Q How about ammunition, bandoleers?

A No.

Q All you saw was boxes?

A Yes.

Q Pardon?

A Yes. And they put them in the wagon.

Q I see. You are sure you saw the boxes?

A Yes, I seen some kind of boxes.

Q Did you see them taking out a large bedspread or bed sheet in a package form? Did you see this?

A No.

Q You didn't see that?

A No.

Q All right, but this area here was heavily gassed, around the corner, wasn't it, at that time?

A Yes.

Q Pardon?

A Yes.

Q And didn't that affect your eyes a little bit?

A Not in front of the house. The only way it affected me was when we was in our basement, that's why we had to come out of this basement.

Q That's what I am saying. The gas was so heavy it went into your house, as you testified on direct

examination; am I right?

A Yes.

Q So that area was saturated with tear gas, the corner of Auburndale and Lakeview?

A Not that much.

Q Pardon?

A Not that much, though.

Q Sir, Mr. Reed, it was so bad that you had to leave your basement?

A Right.

Q Go outside and breathe some fresh air?

A There is a difference from the gas outside and the inside.

Q There were two different kinds of gases in the area?

A There is a difference in the effect it would have on you.

Q Anyway, when you went outside, you went outside because you couldn't stay inside any more because of the gas?

A Mainly because of my kids and wife. I could have maybe stayed down there for maybe two more days, but my kids and my wife couldn't.

Q You did testify on direct examination, also, that your house was gassed and you had to come out and get some air?

A That's why I said, that's why we went outside.

Q And the gas didn't affect your eyes, just your kids' and your wife's?

MR. FLEMING: Objection.

THE COURT: Sustained.

Q (By Mr. Laurie) When you went outside, you had some effect from the gas, didn't you, from what you had observed in your house?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q Didn't you, sir?

A A little bit, a little bit.

Q And when you went outside, the whole corner was saturated with tear gas?

A A little bit.

Q It was so much saturated with tear gas, didn't you see police officers with gas masks on, in front of that bar?

A No, no, I didn't see nobody with masks.

THE COURT: Mr. Laurie, we will take our morning recess.

Don't talk to anybody and don't let anybody talk to you while you are out of the court.

(Thereupon a recess was had.)

- - -

MR. LAURIE:

The State has

no further questions at this time.

REDIRECT EXAMINATION

BY MR. TOLLIVER:

Q Mr. Reed, first of all, I understood you to say that -- first of all, how old are you?

A 28.

Q 28?

A Yes.

Q And so when you speak about people being in the 40's being kind of old, that's because you're 28 years old, isn't it?

A Yes.

Q Now, Mr. Reed, as I understand it, you told Mr. Laurie, or you started to tell Mr. Laurie, that you knew the person that Louise Brown referred to as her father?

A Yes.

Q Who is that person?

A My brother.

Q Your brother?

A Yes.

Q And how old is your brother?

A Forty what? Forty-two, about forty-two.

Q About forty-two?

A Yes.

Q So the person that came in, the stranger that you allowed in your home to get away from the outside and the bullets, was about your brother's age, is that right?

A I'd say he was a little older than my brother.

Q A little older than your brother?

A Yes.

Q All right. Now, while you were outside, you testified on direct and cross-examination, that you saw the police with some boxes, is that right, sir?

A Right.

Q Did you see where they were bringing these boxes from?

A Yes.

Q Where were they bringing the boxes from?

A Out of the bar.

Q What?

A Out of the bar.

Q Out of the bar?

A Right..

Q What else did you see the police with, if anything?

A Bottles.

Q With some bottles?

A Right.

Q What did you see the police do with the boxes?

A The boxes?

Q Yes.

A Put them in the car.

Q Now, when you say "boxes," what kind, how many boxes did you see them with?

A Maybe about three.

Q About three. And they put them in the car?

A Right.

Q Were you able to see what was in those boxes?

A No.

Q All right. And how many bottles did you see the police with?

A Well, it was quite a few of them had bottles in their hands.

Q How many police did you see with the bottles?

A I don't know exactly how many. A few of them.

Q What kind of bottles were they?

A They looked like to be quarts of beer bottles.

Also they could have been liquor bottles, I believe, because after we did go out there and look, there was beer bottles laying there, you know, with beer still in them, quart-size, still on the sidewalk, beer still in them.

Q What did you see the police do with these bottles?

A Boxes?

Q Bottles.

A Bottles?

Q Yes.

A I seen them set them down on the sidewalk.

Q You saw them set them down on the sidewalk?

A Right.

Q You said you had occasion to go back over there and look?

A Yes, after the police had left the area, we -- you know, we went around there looking because a lot of guys was picking up bullets that was left on the ground.

These beer bottles were sitting there, some half full, some three-fourths full, some empty.

Q When you say that you could pick these bottles up off the ground, how long afterwards that you had seen the police put these bottles down, did you go over across the street and see what they had?

A 20 minutes, 15 minutes, something like that.

Q About 10 or 15 minutes?

A Yes.

Q This is after the police had gone?

A Yes.

Q Can you recall how many bottles you saw?

A Maybe about 5, 6.

Q About 5 or 6 bottles?

A Yes.

Q Now, you were talking about -- you said you saw some



bullets on the ground?

A Yes.

Q Did you see any bullets on the ground?

A Yes.

Q What kind of bullets were they?

A They looked like shotgun bullets shells, you know. They wasn't fired or anything.

Q These bullets hadn't been fired?

A No, there was a whole lot of them laying around.

Q When you say they were laying on the ground, were they laying over by the bar?

A The majority was around the bar.

Q Around here (indicating)?

A Yes.

Q Where else did you see some, if you saw any?

A Around the front of the house.

Q In front of your house?

A Yes.

Q Over here (indicating)?

A Yes.

Q Here (indicating)?

A And between my house and the other house.

Q Here (indicating)?

A Yes.

Q Shotgun shells?

A Yes.

Q Now, did you have occasion to examine your house and Mr. Chapman's house after this was over?

A Right.

Q Tell us what you found?

A Well, first, in Chapman's house I found out the windows in the front of the house broke out.

Q All the windows broken out?

A Yes.

Q That is upstairs?

A Right.

Q All right.

A And as you go up in his hallway, there was a hole, about 3 or 4 holes in the side of the house and one hole came through the side of the house and went through my wall because I got a hole in my wall that came all the way through, plus I have a bullet hole in my bedroom wall.

Q In your house?

A Yes.

Q I believe you testified the only bullet that you saw fired through your windows --

A Right.

Q -- was fired by a police officer?

A Right.

Q That is the only one you saw?

A Right.

MR. LAURIE:

Objection.

THE COURT:

Overruled.

Q And after that was fired, that's when you went down in the basement?

A Right.

MR. TOLLIVER:

Nothing further.

MR. LAURIE:

I've got a couple.

RECROSS-EXAMINATION

BY MR. LAURIE:

Q You say that Louise was the daughter of your brother, is that right?

A Yes.

Q What is your brother's name?

A Richard.

Q Richard?

A Right.

Q Where does he live?

A Where he lives now?

Q Where did he live then?

A With me.

Q He lived with you in that house?

A Yes.

Q And did he live there by himself with you or did he have somebody else living with him with you at your house?

A By himself.

Q You say you picked up bullets off the ground?

A No, I didn't say I picked them up. I say I seen other guys picking them up.

Q What other guys?

A All the fellows that was in the neighborhood was going around picking up the bullets.

Q They were all picking up bullets?

A Yes.

Q And did they turn them over to the police?

A I don't know what they done with them.

Q Did you turn any over?

A I didn't pick any up.

Q You said you saw shotgun shells?

A Yes.

Q What shotgun shells did you see?

A What?

Q What size shotgun shells?

A I don't know what size.

Q Pardon?

A I didn't examine them. I just seen them.

Q How do you know they were shotgun shells?

A They looked to me like shotguns.

Q Describe what you saw.

A They got a red casing and maybe about this long (indicating).

Q And had you seen shotgun shells before?

A Yes.

Q You own a shotgun?

A No.

Q Where did you see shotgun shells before?

A I know other people that have shotguns.

Q Up around Auburndale Avenue?

A No.

Q Across the street next to the bar?

A No.

Q You know other people that have shotguns, though?

A Yes.

Q And you saw shells because of this situation, is that right?

A Yes, 23 years, I believe I should have seen a shotgun shell before.

Q I'm just asking you, sir. That's all. Have you seen shotgun shells, tell me? You saw them?

A Yes, I've seen shotgun shells.

Q Have you seen carbines in your life?

A Carbines?

Q Yes.

A Well, I don't know the difference between any carbine bullets or not, I don't know.

Q I didn't ask you about the carbine bullets. Have you seen any carbines, along with seeing some shotguns in your 28 years of life, you said?

A I can explain to you that I don't know the difference in the carbine bullet or whatever you're speaking of. See, I never be to the service. See, I'm not familiar with these different bullets.

Q Besides the service, have you see any carbines in your life, other than the weapon you saw was a shotgun you said before?

A I can't follow you. I don't know.

Q Have you ever seen a carbine in your life?

A What ways a carbine, what are you speaking of a carbine?

Q Just ask me if you don't understand. Say you don't understand, what you don't know. What I'm asking --

MR. TOLLIVER: Objection.

MR. FLEMING: Objection.

THE COURT: Do you know

what a carbine is?

THE WITNESS: I'm trying to

find out.

THE COURT: Do you know,

without finding out?

THE WITNESS: I'm -- well, I presume he is speaking of a gun.

THE COURT: It's a rifle of some kind.

THE WITNESS: Rifle? No, I haven't seen it.

Q How long did you say you lived in that neighborhood, sir?

A I've been in that neighborhood since 1952.

Q On that corner?

A I've been on that corner since April of last year.

Q April of last year?

A Yes.

Q And you saw (indicating) no person dressed in dashikis or gowns that Black Nationalists wear go in 12312 as long as you lived on that corner?

A Yes, I seen them.

Q You seen them go in there?

A Yes.

Q You seen the defendant go in there, Mr. Evans?

A He lives there, doesn't he -- didn't he?

Q I don't know, sir. I'm asking you. You knew he lived there?

A Yes.

Q You visited with him there?

A No.

Q Is he in the court room this morning, the defendant, the man that you said lived in 12312?

A Yes.

Q Where is he?

A Right there.

Q Third man?

A The one with this gown you're speaking of.

MR. LAURIE: May the record show he is identifying the defendant?

THE COURT: It may so show.

Q How often have you seen him go in and out of that house?

A Many times.

Q How about July 23rd, did you see him go in and out of that house?

A I didn't see him at all that day.

Q But you did make some observation after 7:00 o'clock that there was someone hanging on or about that corner?

A Near, the only thing I could see was polices.

Q That's all you saw?

A That's right.

Q You didn't see anybody coming out of this house (indicating), 12312?



A No, I didn't.

Q And spread out?

A No.

Q You didn't see that?

A No.

Q All right. And now, these observations that you allegedly have made on the corner of Auburndale and Lakeview, you never went down to see the Chief of Police and tell him what you saw there, did you?

A No.

Q Did you ever go down to City officials and tell the City officials what you saw?

A No.

Q Is today the first time publicly that you are telling anybody what you saw?

A That's right. Not anybody, no.

Q Who did you tell, other than today in Court about what you saw? To whom did you tell this to?

A Well, like we all gathered around and tell each other what all we seen that happened that day.

Q As far as any public officials or public places, this is the first place you said anything about it?

A Yes.

MR. LAURIE:

Thank you.

MR. TOLLIVER:

Nothing further,

Judge.

THE COURT:  
are excused.

Mr. Reed, you

(Witness excused.)

MR. FLEMING:

Henry Orange.

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THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness HENRY J. ORANGE, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Orange, will you speak up so everyone in the courtroom can hear you, and state your full name to the Court and spell your last name, please.

A My name is Henry J. Orange, O-r-a-n-g-e.

Q Where do you live, Mr. Orange?

A 3328 Sutton Road.

Q Are you married or single?

A Married.

Q Do you have any children?

A Two.

Q What is your occupation?

A Laborer.

Q Where do you work?

A International Chimney.

Q How long have you worked there?

A Oh, I say about twelve, thirteen years.

Q Calling your attention to the 23rd of July, 1968,

did you have occasion to be driving on Auburndale Road that day?

A Yes, I was.

Q About what time of day or night was it when you were driving down Auburndale?

A About 6:30, I was taking about half an hour to get over, so I would say around about 7:00 o'clock.

Q And did anything unusual happen to you while you were driving down that street? Tell us what happened.

A When I drove up there, I pulled over on the wrong side of the street, by the Lakeview Tavern, and I stopped, and the mans standing in the door of the Lakeview Tavern, I went to ask him was one of the guys I was looking for to pick up to go to work in there.

Just as I opened my mouth to ask him, he closed the door, so I said, "What the heck's going on," you know.

By that time the two guys went in front of my car and had play rifles, that's what I thought it was.

MR. LAURIE:

I didn't hear that.

THE COURT:

They had little

play rifles, that's what he thought it was.

A That's what I thought it were, play rifles.

Q (By Mr. Fleming) Were these civilians?

A Yes, they were civilians.

Q Go ahead.

A And so about the time I was getting to think what was going on --

As a matter of fact, I didn't know, and everything busted loose, shooting started, you know, and I fell down in the car and I laid there for about ten minutes, because the shooting lasted about ten minutes.

Somebody told me -- they said, "Best thing you can do is get up and get the hell out of there," you know, so I raised up and turned the switch on.

Just as I got ready to take off, the police hollered on me, across the street, and said, "If you move that car, I'll blow your goddamned brains out."

So I threw the switch. The shooting started again. I stayed there for about an hour or so. Then the shooting started again. Then about that time I got shot, you know.

Then I started --

Q Did you see who shot you?

A Pardon?

Q Did you see who it was?

A I couldn't see, because I'm laying on the floor of the car.

Q You were laying on the floor?

A Yes.

Q Go ahead.

A Not on the seat; on the floor.

So I went to hollering, "Help me, get me out."

Nobody came, and so I kept hollering, so finally it got dark, you know, and the two guys opened the door and the light came on; they closed it back and said, "Stay in there, we'll get you out of this."

Q Who were these two guys?

A Pardon?

Q Who were these two people?

A Well, I figured they was detectives, because they had on suits like mine and yours.

They told me to stay, so I laid there about an hour or something. They come back and drug me out of there.

Q You say they drug you out. What do you mean? They pulled you out of the car?

A Yes. I didn't raise up. They pulled me out. Right. I was put right there by the front wheel.

I pulled up there to stay about an hour. Finally, they told me to walk across the street and get in the police wagon to go to the hospital.

Q Were you bleeding at this time?

A Yes, I was bleeding.

Q Where were you shot?

A All up my back and down my back (indicating).

Q And when the police came to your car and opened the door and told you to stay there, did you ask for help?

A I told them I was shot before I opened the door.

Q Then what happened?

A So I walked across the street and got in the police wagon, and another cop come up there and told me to get the hell out of there.

I got out and walked across the street and walked up to this Sunoco station. I disremember the name of the street.

Q Ashbury?

A Ashbury. Sunoco station right there on the corner. So I asked the cop to take me to the hospital. He told me to go across the street and ask the two cops sitting in the station wagon.

I went and asked them. They called up somebody and said a man was hurt, was it all right to take him to the hospital?

And they took me to Lakeview Hospital -- I mean, Lakeside Hospital.

Q Lakeside Hospital?

A Yes.

Q Now, sir, is this about the location where your car was parked (indicating), about there, where this automobile --

A That's right, a little bit back, just a little.

Q When you turned the switch on to try to get out of there, what door did that police officer open when he

pointed his gun at you?

A He didn't open no door. He was standing right in the middleways of the street.

Q Right here (indicating)?

A No. Back.

Q Right here (indicating)?

A Way back where the next --

Q Over here (indicating)?

A Back further, right in there.

He was standing across --

Q You started up the motor?

A Yes, I done started it up.

Q This police officer standing back here (indicating) yelled from over there (indicating)?

A Yes, that's correct. He said, if I move the car he'll blow my damn brains out, because two cops was laying in front of my car, wounded, but I didn't know this because they must have got there when I was laying down there.

Q About how long were you laying in the street and raising up and doing all these things you described, in this car before you were able to get out?

A Well, I would say right about something to 11:00 o'clock, from 7:00 to something to 11:00.

Q About how long were you laying in this car after being shot?



A Well, it had to be a good two hours and something.

Q Now, did there come a time when you made a statement to the police about what transpired or what you saw and what happened to you out there?

A Pardon? Say that again.

Q Did you go to a place and make a statement and there was a detective typing and writing down everything, typing down everything that you said?

A Yes, I did.

Q And you signed. All right.

Was that over next door at the Cleveland police station, right next door there?

Well, were these detectives that took your statement?

A In that building or this one, I don't remember, but I know I came down to the Detective Bureau.

Q Did there come a time when you were subpoenaed to testify in this trial?

A Pardon?

Q Did you get a subpoena before yesterday to testify in this case?

A Yes, I did.

Q When did you get that subpoena?

A Well, I wasn't home; I was in Virginia, I was out of town, working.

Q How long ago was it that you get that subpoena?

When was it that it came?

A I think it was on the 15th, because I got it in my pocket now.

Q The 15th of April?

A Yes.

Q After you came back from Virginia, did you discuss this case with anybody?

A Yes, I did.

Q Who did you talk to about this case? Who did you talk to about this case?

A You mean after I came from Virginia?

Q Yes.

A Nobody, but my wife. She was telling me about I had a subpoena there.

Q Then you received another subpoena yesterday?

A Yes, last night.

Q All right. Now, did a man named Mr. Young talk to you today? Short, heavy fellow?

A Yes, he did.

Q Had you ever seen that man in your life?

A No, sir, not to my remembrance.

Q Have you ever seen me before in your life, before today?

A I don't think so.

MR. FLEMING:

You may inquire.

MR. LAURIE:

Thank you.

CROSS-EXAMINATION

BY MR. LAURIE:

Q Mr. Orange, where did you say you worked, sir?  
Where do you work? What's the name of your company?

A International Chimneys.

Q Cincinnati --

THE COURT: International  
Chimneys, I think he said.

THE WITNESS: That's right.

Q Is that a Cleveland organization?

A That is right over there on Hamilton.

Q But you work out of the State for them, is that right?

A All over the world, anywhere they get a job, sir.

Q Did it come to your attention I called your office and talked to the lady in the office and asked for your whereabouts and they were told to me, that you were out of the state?

MR. FLEMING: Objection.

A Did that come to your attention?

MR. FLEMING: Objection.

THE COURT: Sustained.

A How's that?

THE COURT: Sustained. Put  
another question, Mr. Laurie.

Q Isn't it a fact that you learned that the Prosecutor's office was looking for you --

MR. FLEMING: Objection.

Q -- through your office?

MR. LAURIE: This is cross-  
examination.

MR. FLEMING: Objection.

THE COURT: Did anybody tell you that the Prosecutor's office had called for you, Mr. Orange? Did anybody tell you?

THE WITNESS: I didn't know anything about it until I came home, sir.

Q All right. Now, sir, you say that you were on Lakeview and Auburndale area about 7:00 o'clock, was it that you said you were there?

A Right.

Q And you saw a man at the corner door of the bar, is that right, is that what you said?

A Standing in the door.

Q In the door?

A Yes.

Q And you had some conversation with him?

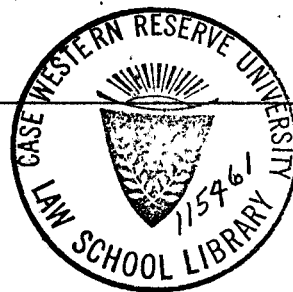
A I went to say something to him and he closed the door. I never said a word to him.

Q He went inside?

A Yes.

Q Did he have one of those play guns in his hand when he went inside?

A He didn't have nothing. He was already inside. He was standing in the door. When I went to speak to him, he just closed the door, but he wasn't looking at me, you know.



Q But he closed the door?

A Yes.

Q He wouldn't let you in?

A I wasn't out of the car. I wasn't trying to get in. I just drove up there and stopped, sir.

Q Yes.

A I went to ask him a question and he just closed the door.

Q He closed the door on you. Then you stayed in the car and you saw two boys go by with rifles?

A About the time he closed, two mens ran across the front of the car with two rifles.

Q Going up Auburndale? Or coming down this way (indicating) or this way (indicating)?

A They came in front of my car and went right down that street behind me.

Q Now, your car was facing this way (indicating)?

A Just like that car.

Q He went by your car going up Auburndale this way?

A Pardon?

Q Up Auburndale or around the front?

A He come across the front of the car and up that street on that side.

Q Over here (indicating)?

A Yes.

Q He came from someplace on the other side of the tavern, that direction, around the corner of the tavern, is that the way he went?

A No.

Q Please come down here, sir.

A Pardon?

Q Please come down.

THE COURT: Step down by the photograph.

(The witness left the stand and went to the map.)

Q Now, sir, will you stand on this side, way over by the window, please. You say your car was parked about the size of this car? (Indicating).

A Yes.

Q These boys came from behind you??

A No, the boys came to me. It looked like to me, down this way (indicating), went across here (indicating) and down this way (indicating).

Q Then came from Lakeview in the southerly direction across your car and ran in this direction (indicating), is that it?

A Yes.

Q And there were two of them?

A Yes.

Q And they were colored gentlemen?

A Yes.

Q Did they have dashikis on?

A I don't know what they had on. I don't remember.

Q So after they passed you, then you said all hell broke out, is that right, sir?

A Yes, they passed me. By the time I said, "What the hell's going on," that's when hell broke loose.

Q At this time, that's the only observation about anybody with weapons?

A No more than the police when they went by, the police was coming up here (indicating). They jumped out of the car and went to shooting.

Q The police were chasing these boys that had the guns?

MR. FLEMING: Objection.

A I don't know if they were chasing them or not.

THE COURT: Overruled.

A All I know, the police come up here (indicating) and stopped and stopped their car and started shooting over in this direction (indicating).

Q What kind of weapons did they have?

A All I saw was pistols.

Q Did you hear them say anything to these people?

A No, I didn't hear nothing.

Q One officer was shooting?



A I don't know how many was shooting because when they first started shooting, I went down in the car.

Q Immediately you went down in the car?

A That's right.

Q You stayed there until you got hit?

A No, after I laid down in the car, the shooting ceased about 10 minutes and I got up. That's when I went to get out of there.

Q That's when you say the police said don't move or they'll blow your goddamn brains out?

A That's right.

Q Didn't they further tell you that there were two officers underneath that car, not to move that car?

A Yes, he told me that.

Q You told that to the police in the statement, is that right?

A That's right.

Q So in addition to staying in the car, he advised you there were two officers —

A He didn't tell me to stay in there. About an hour, two more detectives came up and I was hollering and they are the ones that opened the door and told me to stay in there.

Q You want to take the stand, sir?

(Thereupon the witness resumed the stand.)

MR. FLEMING:

May the record

show that, your Honor, that Mr. Laurie is questioning the witness from a statement that is contained in the book he is holding?

THE COURT:

I don't know

what he is questioning from, but he is asking questions. Continue your questions.

Q Now, sir, didn't you further tell the officers in your statement, sir, that the two boys that ran past your car went between the two houses?

A No.

Q You didn't say that?

A No, they went up the street behind my car. I don't know where they went. That's what I told them.

Q And you did tell the officers, though, that in your statement, that some officers told you to stay in the car because there were two policemen lying under your car?

A Yes.

Q Do you remember saying that to the police?

A Yes, that's right.

Q Did you further tell the policemen in your statement that when you popped your head up to see what was going on, you saw an officer coming (indicating), an officer coming from this direction?

A Coming out of that driveway.

Q And bleeding full of blood?

A That's right.

Q And further, sir, you were advised to remain in your car by the officers, is that right, sir?

A Yes.

Q And as far as you know, then the officers never shot at you, did they?

A I don't know who shot at me.

Q All right. And then, you say that after this was over with, you ended up in the hospital, is that right?

A Yes, I did.

Q Now, after you saw, sir, the one officer coming from the driveway next to the --- behind the car, bleeding, you saw another officer come from the same direction towards the corner of Auburndale and Lakeview, bleeding; you saw two officers altogether wounded?

A No, I didn't. I didn't see them two laying in the front of the car. They told me they was there.

Q I don't mean those two. Didn't you tell the officer in the statement you gave you saw one officer running and he was hurt.

Then when you popped up again, you saw another officer running and he was wounded?

A No, I didn't say that. Only one.

Q Only one officer?

A Only one.

Q How many times was your car hit when you were lying down in it?

A Well, when I got out and took a look at it, the left fender, I had about 5 or 6 holes in it. The tire was shot down. The top was shot up. The front windshield was shot out. The back windshield was shot out and one bullet went through the ignition switch right by the key.

So you can count them for yourself. I don't really know how many. And one went down through the hood.

Q What side of your automobile was shot up?

A Mostly the left side.

Q That is the driver's side?

A Yes.

Q And that was on the side closest to the sidewalk, is that right, sir?

A Right, right.

Q In other words, you were parked (indicating) -- you had stopped on the wrong side of the street, and this side of the car, the left side, was the one that was fired on?

A Yes, on the front fender and tire.

Q And you said one went through the roof?

A Yes.

Q And your back window was shot out?

A The only thing, all shot out, and the windshield was shot out, too.

Q All right. So, during this time, or before this time that all these holes appeared in your car, or were being fired at you, the police already had told you to stay in your car, didn't they?

A Well, I don't know when he told me that was all the holes in there then or got in there later, because I couldn't tell you that.

Q When you testified earlier, you peeped up to see

what was going on, while it stopped, and then some police officers told you to stay in the car, and you went down; and then the firing came in after you were in the floor?

A No, they been shooting before then.

Q You came up twice, though, didn't you, sir?

A Yes.

Q After the police told you to stay down on the floor, you hit the floor, didn't you?

A Right.

Q The car was being fired on after that?

A It was still being hit.

MR. FLEMING:

Thank you.

That's all.

May I see that statement, Mr. Laurie?

MR. LAURIE:

What statement?

What are you -- being smart or something?

THE COURT:

Counsel, come up.

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury, and off the record.)

MR. LAURIE:

Wait a while.

Mark this.

(State's Exhibit No. 258 was marked for identification.)

Q (By Mr. Laurie) Showing you what has been marked

as State's Exhibit 258 --

MR. FLEMING:

May I see it?

MR. LAURIE:

Let me identify it, first. I'll show it to you. Nobody is going to hide anything.

THE COURT:

All right.

Q (By Mr. Laurie) State's Exhibit 258, is this your signature, Mr. Orange?

A Yes.

Q Is this the statement you gave the police?

A I imagine it is.

(Statement shown to defense counsel.)

MR. FLEMING:

Will you mark this, please.

MR. LAURIE:

Your Honor, I'm not through with -- go ahead.

MR. FLEMING:

If you're not through with it --

MR. LAURIE:

At this time, your Honor, I'd like to put into evidence State's Exhibit 258 and read it to the jury.

THE COURT:

Well, counsel can inquire, obviously, before we actually admit it.

MR. LAURIE:

Well, then I'll renew my --

THE COURT: You're offering it now. I understand that. But counsel seemed to indicate he wanted to ask questions.

I am going to permit him to ask the questions before I rule on the offer.

MR. LAURIE: Then, your Honor, I will rest.

MR. FLEMING: If it please the Court,

(Defendant's Exhibit  
UUUU was marked for  
identification.)

REDIRECT EXAMINATION

BY MR. FLEMING:

Q Now, Mr. Orange, I am showing you what has been marked for identification as Defendant's Exhibit UUUU, and down here (indicating) is written in longhand "Henry J. Orange."

Who wrote that signature there?

A I did.

Q And is this a statement that you made in the Detective Bureau?

A Yes.

Q On March 3, 1969?



A Yes.

Q And I believe you indicated you came there in response to some detectives, is that correct?

A Yes.

Q And you sat down in a room over at the Detective Bureau and there was a man there with a typewriter, and they asked you what you saw and what you heard on Lakeview?

A That's right.

Q As you told them what you saw and heard, they typed it out?

A Yes.

Q Made this statement?

A Yes.

Q And after this statement was made, they wrote -- typed in here and asked you this question:

"Have you read the above statement and is it the truth?" Isn't that correct?

A Yes -- hold it. I can't read very well. I told him that, from the beginning, because the top of the statement, up here (indicating) --

MR. LAURIE:

I can't hear.

THE COURT:

He said --

A There's something up here, they had it wrong and they said they was going to mark it out or something because they had something up here (indicating), you know,

wasn't really right.

So then, they started from here (indicating) on down, so I don't know.

Q At any rate, you say there was something in there they were supposed to change?

A Yes.

Q But at the bottom of this statement is indicated "This was read to Mr. Orange by Detective Reiss, and he stated it was the truth, and signed same."

Now, you say it was true except for something they were supposed to change up here (indicating)?

A Yes.

Q Then you placed your signature on that statement at that time?

A Yes, I did.

Q Did I understand that some time in the early part of April you were subpoenaed as a witness to testify in this case?

A Yes.

Q And you were out of town?

A Yes.

Q Did anyone make an effort to call you directly or talk to you directly?

A No.

Q About testifying in this case?

A No, I didn't know anything about it until I came home.

Q In other words, then, do I understand that Mr. Tolliver and myself are the first persons to talk to you today with regard to --

MR. LAURIE: Objection.

Now you're really leading this witness.

A That's right.

THE COURT: Just a minute now.

The objection is sustained.

What's the objection to the statement?

MR. FLEMING: We have no objection to offering it, and we would join in the offer.

THE COURT: It may be admitted.

(State's Exhibit No. 258, also marked Defendant's Exhibit UUUU, was received in evidence.)

MR. LAURIE: Your Honor, may

I now --

THE COURT: Do you have any further questions?

MR. FLEMING: No further questions.

MR. LAURIE: May I offer

State's Exhibit 258 in evidence?

THE COURT:

It may be admitted.

MR. LAURIE:

the jury, Judge?

May I read it to

THE COURT:

Proceed.

- - -

MR. LAURIE:

(Reading)

"Criminal Investigation Bureau. March 3rd, 1969.

Time: 6:35 p.m.

"The following is a statement of Henry J. Orange, colored, fifty-one, male, residing at 3328 Sutton Road, Shaker Heights, Ohio; 921-3338.

"Employer: International Chimney,  
2133 Hamilton Avenue.

"Regarding the arrest of Fred Evans, on the charge of murder.

"Henry Orange: I left home at 6:30 p.m., July 23, 1968, and it takes me about a half hour to go to the Lakeview Tavern, to pick up some guys to go to work.

"At the time I pulled up there and stopped, there was a guy standing in the doorway of the Lakeview Tavern, and he was holding the door and I went to ask him if the guy was in there, and before I could say anything, he closed the door and went back into the tavern.

"By that time two guys was running up Lakeview and right in front of my car, and they had two rifles. I thought they was play guns but where they run to, I don't know.

"These were two colored boys. They went around between the house, but I don't know which house they went into, but they one into one of the houses next to the Lakeview Tavern.

"By the time they passed, and got out of sight, that's when all hell broke loose, and I couldn't get no place. When the shooting started, I fell on the seat of my car, and when the bullets started hitting my car, that's when I fell on the floor and stayed

there. When the shooting stopped the first time, I peeped up and I seen the policeman coming out of a driveway and he was bleeding all over. His uniform was soaked with blood.

"He walked around the corner to Lakeview. He looked to me like he was in a daze. I started to start my car to get out of there and some policeman hollered to me, 'Don't move that car. There is two policemen laying wounded in front of your car.' So I just stayed there.

"The second part of the shooting started then. I hit the floor, as again, and when it eased, I looked up and saw the police come out of that alley and he was full of blood. That's when I got ready to leave and the police threwed the pistol on me and told me don't move.

"Then I fell back down on the floor and I stayed there till the detective got me out. Then later on, two policemen took me to Lakeside Hospital and I was treated for wounds on my back side and my back..

"Question: How many times was your car hit by gunfire?

"Answer: Seven times that I know of, on the left fender, the windshield, and the hood and the ignition switch. I don't know how many went through the windshield and the back window was shot out too.

"Question: What kind of a car did you have at that time?

"Answer: '67 Buick convertible, blue color, Ohio license BA 2175.

"Question: Have you had any of the damage repaired?

"Answer: Yes, everything but the damage on the dashboard.

"Question: Where did you have your car repaired?

"Answer: Shaker Heights Buick.

"Question: Do you remember how the two males were dressed that ran in front of your car?

"Answer: No, I don't.

"Question: Did you see anybody else that was shot or wounded?

"Answer: No, just the one policeman.

"Question: Is there anything else

you can tell us about this?

"Answer: That's all I know.

"Question: Have you read the above and is it the truth?

"Answer: Signature Henry J. Orange.

Witness Richard Reiss, Detective 1099. Cooney

Detective No. 32 7:00 p.m. 3-3-69. Room

No. 3.

"This was read to Mr. Orange by Detective Reiss and he stated it was the truth and signed same.

"Cooney, Detective No. 32."

That's all I have, Judge.

MR. FLEMING: Nothing further,  
your Honor.

THE COURT: You are excused,  
Mr. Orange.

(Witness excused.)

MR. FLEMING: May we approach  
the bench?

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury, and off the record.)

THE COURT: Rather than  
start another witness at this time, folks, we



will recess for lunch. The recess will be until 1:15.

When you are out of the court room, don't talk to anyone. Don't let anybody talk to you about the case.

(Thereupon an adjournment was taken to 1:15 p.m., Saturday, May 3, 1969, at which time the following proceedings were had):

-- -- --

SATURDAY AFTERNOON SESSION, MAY 3, 1969

1:30 pm

THE COURT:

Be seated, please.

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness JOSEPH S. McMANAMON, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TOLLIVER:

Q Please, state your name to the Court, please.

A Joseph S. McManamon.

Q Where do you live, Mr. McManamon?

A 3690 Melbourne Road, Cleveland, Ohio.

Q Are you an attorney?

A Yes, sir, I am.

Q When did you complete law school and where?

A In 1950, Cleveland Marshall Law School, Cleveland, Ohio.

Q When were you admitted to the Bar?

A In August of 1950.

Q What is your present occupation, sir?

A I am Director of the Department of Public Safety of

the City of Cleveland.

Q How long have you been in that capacity?

A I began my employment on November 13, 1967.

Q Now, tell the Court and jury when you say that you are the Director of Public Safety, what we commonly call the Safety Director, tell the Court and jury what, just what this title means, what does that encompass?

A The Department of Public Safety is a department within the structure of the government of the City of Cleveland.

It consists of four divisions: the Division of Police, the Division of Fire, the Division of Traffic, Engineering and Municipal Parking Lots, and the Division of Kennels.

The Director of Public Safety is the cabinet officer, the civilian head of the safety forces of the City of Cleveland.

Q Then that would mean, sir, that the police department would be under your jurisdiction; is that right, sir?

A Yes, that is correct.

Q And would that also include special policemen, for example the Workhouse guards and so forth?

A No, sir. The detention facilities are not in my department.

Q I see. Now, as a result -- are you here as a

result of a subpoena?

A Yes, sir, I am.

Q And as a result of that subpoena, were you told or requested to bring certain information with you?

A I was directed under the subpoena to bring with me certain documents.

Q Tell the Court and jury what documents are those?

A May I refer to the subpoena, your Honor?

THE COURT:

You sure may.

A The subpoena says: "Bring with you all statements of complaint with regard to the July 23rd, 1968 incident. Also bring with you the Mayor's Report with regard to the July 23, 1968 incident."

Q (By Mr. Tolliver) Well, let's start with the first. Were there complaints made to your office, arising from the incident of July 23rd?

A There were some complaints brought to us by individuals. There were a group of complaints that were brought to us by representatives of an association.

Q Would that be the N. A. A. C. P.?

A Yes, that would be the National Association for the Advancement of Colored People.

Q Do you have those documents with you?

A Yes, I do.

MR. CORRIGAN:

May we approach the

bench, your Honor?

THE COURT:

Step up.

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury, and off the record.)

THE COURT:

Mr. McManamon,  
bring your papers and come with us and counsel.

This is a matter of law, just concerning a matter of law. We will be back shortly. Be at ease.

- - -

(Thereupon the Court, counsel, and witness, retired to chambers for a discussion outside the hearing of the jury and off the record.)

- - -

THE COURT:

All right,

Mr. Tolliver.

Q (By Mr. Tolliver) I believe you testified there were some complaints filed with your office, is that correct?

A Yes, I have.

Q And were these complaints from persons who were involved in the July 23rd incident?

MR. CORRIGAN:

Objection.

THE COURT:

The objection is sustained.

Q (By Mr. Tolliver) All right, Director, showing you

what has been identified as State's Exhibit Z, will you identify that for us, sir?

A This says: "Chronological report of events from 2:30 p.m." --

MR. LAURIE: Did I understand the exhibit to be State's Exhibit?

MR. TOLLIVER: I said "Defendant's Exhibit Z."

MR. LAURIE: Oh. All right.

THE COURT: Go ahead with your answer.

A "Chronological report of events from 2:30 p.m., Tuesday, July 23rd, to 8:30 a.m., Sunday, July 28, in the Glenville area disturbance, from the office of Mayor Carl B. Stokes, City of Cleveland."

Q (By Mr. Tolliver) Now, Director, we asked you to bring a copy of that report. Do you have a copy, sir, in your file?

A Yes, I do.

Q Would you produce that at this time, sir?

THE COURT: Mr. McManamon, if you looked through all the files in your office including what you have here, would it be any different than the one you have here just identified as Exhibit Z?

THE WITNESS: I believe not,  
your Honor.

MR. TOLLIVER: All right.

Q (By Mr. Tolliver) Now, in your capacity, sir, as the Safety Director, did you cause an investigation to be made of the events that occurred on the 23rd day of July?

A Yes, I did.

Q And tell us what did you do?

You said you caused an investigation. Explain how you caused an investigation and how the investigation was made?

THE COURT: Well, now,  
obviously, how the investigation was made would certainly be something that would be completely hearsay.

Now, the original question was: Did he cause an investigation to be made?

MR. TOLLIVER: Yes.

THE COURT: There has been no objection to it, and it may be answered.

Q (By Mr. Tolliver) Did he designate certain persons then to conduct an investigation?

Did you do that, sir?

A Yes.

Q What persons did you designate to make the

investigation?

A These were members of the Division of Police and some members of my own office.

Q Now, can you tell us who these persons were, individually?

A My order went directly to the chief of the Division of Police at that time.

Q Who was that, sir?

A Chief Michael J. Blackwell.

Q Who else?

A After that, there were reports from Captain -- the then Captain --

MR. CORRIGAN:

Objection.

Unresponsive.

THE COURT:

Objection sustained.

Q (By Mr. Tolliver) Well, the question is: Who else, other than the chief of police, did you designate to make the investigation?

A I did not designate individual persons. This was within his purview, and he did that.

Q You mean the chief of police?

A Yes.



Q All right, I see, now as a result of this designation that you made, Mr. Director, were reports received by you from the Cleveland Police Department?

A Yes.

Q As a result of the order that you had issued?

A Yes.

Q From what policeman or what persons within the Police Department did you receive reports from?

A Captain George Sperber.

Q What was Captain George Sperber's position at that particular time?

A He was a member of the Detective Bureau in charge of the Intelligence Unit.

Q What do you mean by Intelligence Unit, Director?

A This is a unit that is made up of several branches, special activities, intelligence, on organized crime, surveillance, special surveillance, personnel, that type.

Q I see, and can you recall, Mr. Director, when this report was received from Captain Sperber?

A I believe it was in the first week of August, on Thursday or Friday afternoon.

Q Now, did you have cause to go over this report and discuss this report with Captain Sperber?

A The report was in the form of a conference at my office with Captain Sperber.

Q And who else was present at that time, other than you and Captain Sperber?

A Lieutenant Miller, I think, John Little, Executive Assistant to the Mayor, myself, Thomas Monahan, William Silverman, and there may have been one or two other police officers who came along to assist Captain Sperber.

Q Well, now, for the sake of clarification, Mr. Director, who is Lieutenant Miller?

A Lieutenant Miller is the head of the Narcotics Unit and at that time came directly under Captain Sperber's responsibility.

Q And who is Mr. Monahan?

A Mr. Monahan is the assistant administrator to the Director of Public Safety.

Q Who is Mr. Silverman, you said?

A Mr. Silverman is in business, and having his own business, William Silverman & Associates.

Q Now, sir, as a result of this conference that you had at that particular time, did you do anything?

A Yes.

Q Tell us, what did you do?

MR. LAURIE:

Objection.

THE COURT:

You are talking

about something that occurred in August, about two weeks after this occurrence that is the

subject matter of this lawsuit has been completely terminated?

MR. TOLLIVER: I want ---

THE COURT: The objection is sustained.

MR. TOLLIVER: All right.

Q (By Mr. Tolliver) Well, was a report made as a result of this investigation that was brought to your attention as a result of your order to the Police Department?

A Yes, it was brought on by that particular effort.

Q All right, was this report made public?

A Yes.

Q Tell us what persons participated in making this report public?

MR. LAURIE: Objection.

THE COURT: Sustained.

MR. TOLLIVER: Well, in connection with this report, did Captain Sperber and Lieutenant Miller participate in it?

MR. LAURIE: Objection.

THE COURT: You are talking about in making it public, were they the public relation people you mean, that issued it?

MR. TOLLIVER: And showing what the conclusion was of the investigation.

THE COURT:

Objection sustained.

Q (By Mr. Tolliver) Let me ask you this. Did you have occasion to meet with the Defendant and members of his group in respect to complaints about police harassment?

A Do you mean in this period of time?

Q In any period of time?

A I think the only time I met with the Defendant and a group of individuals was in December or November, I am sorry I can't remember the exact time, in 1967.

Q And what was that meeting about?

MR. CORRIGAN:

Objection.

THE COURT:

Sustained.

Q (By Mr. Tolliver) Well, as a result of investigation that you told us about, that was participated in by the police, per your order, did your office come to any conclusions as to what happened, how it happened, and what caused it to happen?

MR. CORRIGAN:

Objection.

MR. TOLLIVER:

Let me finish

my question, please, on the 23rd of July, 1968?

MR. CORRIGAN:

Objection.

MR. LAURIE:

Objection.

THE COURT:

Objection sustained.

MR. FLEMING:

May we approach

the bench, your Honor?

THE COURT: Yes.

(Whereupon a discussion was held between Court and counsel, outside the hearing of the jury and off the record.)

THE COURT: Objection sustained.

MR. TOLLIVER: You testified, Mr. Director, that this is a copy of that report that was issued --

THE WITNESS: Your Honor --

THE COURT: He testified it was a copy of a report that bears the caption he read.

MR. TOLLIVER: Yes.

THE COURT: That's in evidence.

MR. TOLLIVER: Now is this --

THE COURT: I mean his statement is in evidence; the report isn't in evidence.

Q (By Mr. Tolliver) All right, is this a copy of a report that was made public at that particular time?

A That's one portion of the report that was made public.

Q This is a portion of it?

A Yes.

MR. TOLLIVER: We offer this exhibit, Judge, into evidence at this time.

MR. CORRIGAN: Objection.

THE COURT:  
is not received.

Sustained. It

(Defendant's Exhibit  
Z rejected.)

MR. TOLLIVER: Nothing further.

CROSS-EXAMINATION

BY MR. LAURIE:

Q I want to ask you, if you will, Director, is it a fact that Silverman & Associates and Mr. Monahan are public relations people hired by the Mayor?

A Mr. Monahan is an assistant administrator in the Director of Department of Safety's office; he has no public relations functions.

Q All right, Silverman & Associates?

A William Silverman & Associates, I believe they are public relations -- a public relations firm.

Q Hired by the Mayor or the Mayor's office?

A I have no knowledge of the employment agreement of William Silverman & Associates.

Q You mean to say that you didn't know this man's status when he sat in on a high-level meeting with you?

MR. FLEMING: Objection.

THE COURT: Overruled.

THE WITNESS: Mr. Laurie, I

know Mr. Silverman's profession. I know that he has in the past assisted in the preparing of reports, the writing.

Q I mean, for the Mayor, under a retention, a retaining fee?

A Mr. Laurie, I must again reiterate, I do not know the terms of employment.

Q I take it, Director McManamon, that when this man was in this particular arrangement that you testified that was had, he wasn't an employee of the City of Cleveland, was he?

MR. FLEMING: Objection.

THE COURT: Overruled.

He said "this arrangement" -- you mean at this meeting?

MR. LAURIE: Whatever it was -- he said some kind of a get-together there -- he wasn't an employee?

THE WITNESS: I did not say there was any kind of "get-together." There was a conference.

THE COURT: Was he an employee of the City of Cleveland at that time?

THE WITNESS: So far as I know, he wasn't.

THE COURT:

At that time?

THE WITNESS:

At that time.

Q (By Mr. Laurie) Did you inquire what this man was doing there at this conference?

A No, sir, I know Mr. Silverman's credentials well.



Q Does he have a public position in our city,  
Mr. McManamon?

MR. TOLLIVER:  
last question.

I didn't hear that

THE COURT:  
public position in our city?

Does he have a

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

Q (By Mr. Laurie) Does he?

A Not that I know of, Mr. Laurie.

Q And you allowed him to stay in this high official  
meeting without checking what capacity he was there for?

MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection.

THE COURT:

Objection sustained.

He said he was aware of what Mr. Silverman's work  
is.

MR. LAURIE:

That's all I have.

- - -

REDIRECT EXAMINATIONBY MR. TOLLIVER:

Q Mr. Director, whoever this person was and whoever these persons were, as a result of the investigation that was made, did you come to the conclusion that there was no riot and no evidence of conspiracy?

MR. LAURIE:

Objection.

MR. CORRIGAN:

Objection.

THE COURT:

What did you say?

The objection is sustained.

MR. CORRIGAN:

If it please the

Court, will the jury --

THE COURT:

The jury will

disregard it.

MR. CORRIGAN:

If it please the

Court.

MR. FLEMING:

May we approach

the Court?

MR. CORRIGAN:

Will the Court

instruct the jury to disregard the question put to him by Mr. Tolliver relative to there being a finding of no conspiracy?

THE COURT:

The jury is so

instructed.

MR. TOLLIVER:  
Judge. Thank you so much.

Nothing further,

MR. LAURIE:  
behalf of the State.

Nothing further on

MR. FLEMING:  
bench?

May we approach the

THE COURT:  
anything further of Mr. McManamon?

Does anybody have

You are excused.

THE WITNESS:  
your Honor.

Thank you very much,

(Witness excused.)

---  
(Thereupon a discussion was had between the  
Court and counsel, outside the hearing of the jury  
and off the record.)  
---

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness ALBERT ALLAN FORREST, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Now, sir, will you state your full name to the Court and spell your last name, please.

A Albert Allan Forrest. F-o-r-r-e-s-t.

Q Where do you live, Mr. Forrest?

A 1564 Ansel Road.

Q What is your occupation?

A I am the manager of a lounge bar.

THE COURT:

I can't hear that.

THE WITNESS:

Manager of a lounge

bar.

Q Where is that lounge bar, located?

A 1045 East 105th Street.

Q What is the name of it?

A Cafe Tiajuana.

Q Now, sir, have you ever been arrested and convicted of a state or federal offense?

A Yes, sir.

Q And when were you arrested and convicted of a state or federal offense?

A 1953 and 1961.

Q What was the nature of those offenses?

A In 1953, for armed robbery; and in 1961, was burglary and larceny.

Q How long have you -- how long did you indicate you have been the manager of this cafe?

A About ten weeks.

Q Calling your attention to the 23rd of July, 1968, did you have occasion to be in the area of Lakeview and Auburndale?

A Yes, sir.

Q That day?

A Yes, sir.

Q And were you in this area at a time when something unusual occurred?

A Yes, sir.

Q About what time was this, if you know?

A I don't know. It was in the evening.

Q The evening?

A Yes.

Q Tell us what was the first unusual event that occurred that evening, to your knowledge?

A Well, first thing unusual that occurred to me, police car passed me with a siren going and a shotgun out the window.

Q And where were you at that time that you observed this?

A I was headed south on East 123rd Street, between Durant and Saywell.

Q And how many police officers were in this car that went past you, with the shotgun out the window?

A Two.

Q And what did you do after that?

A I proceeded in the same direction. I was already headed in that direction.

Q What happened?

A I came to Lakeview and Superior.

I noticed that the streets were crowded with police, and from Superior all the way down to Auburndale.

Q Then what happened?

A I stood there, observing this, just as the rest of the people were doing, and the youth came to me and told me that a brother was laying down wounded on the corner of 123rd and Beulah.

And I told him to show me where he was, so he took me around there, and this brother was laying there, bleeding, at the stomach, and he was still alive.

Q When you say "a brother," are you a Black Nationalist, sir?

A Yes, sir.

Q Do you belong to any specific group of Black Nationalists?

A No, sir, I don't belong to any specific group.

Q Now, this person that you saw, wounded, at 123rd and Beulah, that would be at about this location (indicating), is that correct?

A Which this is -- well, this man -- is Superior --

Q It's down this way, and Euclid is over here (indicating).

A Yes, sir, it was exactly where you pointed.

Q It would be right about there (indicating)?

A Yes, sir. —

Q Now, this body that you observed, was it on the sidewalk, in the street, or where was it?

A It was on the treelawn.

Q On the treelawn. And I believe that you indicated that the person was still alive at that time?

A Yes, sir.

Q Did you have any conversation with this person that you saw there?

A No, sir.

Q What happened after you went to assist him?

A The youth directed me there, he went in one of the houses -- he took his shirt off and got it soaked in water and came back and was going to wash around the wound; and about that time, two police were coming north there on the south side of Beulah and they said --

Q Do you want to step down and show us?

A Yes, sir.

Q Stand over by the window so the jury can see, and tell us what it was that you observed?

A It was two police over here (indicating), and they hollered, "Get away from him, and, you know, I said, "The man is wounded," you know, "we are trying to help him."

Q Did you have any weapons or anything on you at that time?

A No, sir.

Q How were you dressed at that time?

A I had on a black work-jacket and black work-pants.

Q You didn't have on a dashiki or any African garb at that time?

A No, sir.

Q All right, and what if anything did you say in response to the officers when they yelled over at you?

A I said, "The man is wounded, I am trying to help him."



Q What happened after that?

A One of the officers shot twice and another one shot tear gas over there.

Q Now, was this young boy still there with you while you were trying to aid this person?

A Yes, sir.

Q What happened after that?

A Well, we ran; we retreated.

Q Then, after you retreated, where did you go?

A I went back up this way (indicating) to Superior and went back and stood at the corner of Lakeview and Superior, where most of the people gathered in the street there.

Q Did there come a time when you came back into the general vicinity of Lakeview and Beulah there?

A Yes, sir.

Q About what time, about how long after you retreated was it that you came back?

A It was a considerable length of time; it was some hours.

Q All right, and do you have any idea what time it was when you came back?

A No, sir.

Q All right, when you came back, did you come alone?

A No, sir.

Q Who came with you?

A I came back in the company of Frank Moss who was in some official capacity with the police, and Mr. Bertram Gardner, who is the Community Relations Director and Edgar Bales, who is a police officer and four other brothers.

Q All right, when you say four other brothers, you mean four other Black Nationalists?

A Yes, sir.

Q When you came back into the area, where did you go?

A We came down to 1395 (indicating) Lakeview.

Q What, if anything, did you observe as you came to that address?

A At the front or the back?

Q Anywhere, in the front and in the back, tell us everything that happened.

A Well, there was a perimeter of police officers around the front of the building, and Mr. Moss and Mr. Gardner asked the police to let us go through, because there had been a call -- a call came on the radio -- I'm getting ahead of myself.

Q Okay, tell us what happened, just as it happened.

A Well, they called me to the car and asked me to go to the hospital with them to see if there were any more bodies at the hospital so --

Q When you say "they" who are you talking about?

A Mr. Moss and Mr. Gardner.

Q Okay.

A So we proceeded to the hospital and no more bodies came in; so on their way back to the area, a call came over the radio that a man wanted to surrender; and we asked permission to go in and see if we could talk with them to, you know, to see, you know, tell them they would be assured safe conduct out of the area.

Q Okay, and that's the reason you went to 1395?

A Yes, sir.

Q Tell us everything that happened after that.

A The police at the front of the building were told to allow us through into the area. The police at the front of the building told the police at the back to let us come through.

When we got to the back of the building, there was a perimeter of police around this general area, behind this building, next to 1395.

Q 1391?

A 1391, and there were three bodies on the ground in back of the building. One of the bodies was pretty close to the burning building and was in flames. It was a dead body, lying back there, and one of the Brother Nationalists whom I know.

Q What was his name?

A His slave name was Sidney Taylor.

Q All right.

A And then there was this other brother lying back there wounded.

Q Who was he, did you know him?

A His slave name is Lathan Donald.

Q Did you have a conversation with him?

A Yes, sir.

Q And what was that conversation?

A I asked him how bad was he hurt; and he said he didn't know -- he thought he was shot in the spine and he was shot in the leg.

Q And what, if anything, did you observe about him, about his body, as he was lying there?

A He had a number of wounds over his entire body.

Q Okay, what did you do after that?

A It was a fireman standing in the perimeter of police and I asked the fireman to bring a stretcher over so that we could take the wounded men out.

Q Did the fireman have a stretcher with him?

A Yes, sir, he had it under his arm.

Q What happened after that?

A He ignored me -- I mean, he just stared at me. He didn't respond and I repeated the request, and he didn't respond and I snatched the stretcher from him.

Q And what did you do after you did that?

A I took the stretcher and I laid it down next to the body, and the brothers and I picked him up and put him on the stretcher.

Q Did you take him out from behind the burning building?

A No, sir, we weren't allowed to.

Q All right, what happened?

A We were attacked.

Q You were attacked by whom?

A Cleveland Police.

Q When you say you were attacked, tell the Court and jury just what they did to you?

A Yes, sir, I will, and I won't use the language they used.

Q Just tell us what happened.

A One of them jammed a shotgun in my ribs and told me he was going to blow my guts out; and the police behind him came across his shoulder with his rifle butt and jabbed me in my face and knocked me down; then, a number of them stomped me and beat me and kicked me.

Q How long, who was back there with you at the time when this took place?

A There were three other brothers with me.

Q Was Mr. Moss and Mr. Gardner and these other people with you?

A No, sir, they were at the front of the building.

Q What happened after you were attacked?

A I was told to get up off the ground and get out of the area, that I should be killed and they told us all to get out of the area; so when I came back to the front of the building, I was in a dazed condition and I was taken to Forest City Hospital and received 8 stitches on my forehead, 3 behind my ear and I had a tooth broken, (indicating), in the front of my mouth also.

Q Do you have the scars from the blow with the shotgun?

A Yes, sir, clearly visible here (indicating).

Q You may resume the stand.

A Yes, sir.

Q Did you make a complaint of your condition, what happened to you? —

A No, sir.

Q Did anybody ever talk to you about it, contact you with regard to it?

A Yes, sir, someone called from the Law Director's office, I think it was. I'm not sure about that, and they left the number for me to call and I called the number a couple of times and didn't get an answer. I gave up, and as a matter of fact, I didn't have too much faith in anything of any consequence would come out of it anyway.

Q How long were you at Forest City Hospital?

A I don't know, approximately an hour, I think --  
they have the hospital records there at the time.

CROSS-EXAMINATION

BY MR. LAURIE:

Q Did I hear you say you didn't have confidence in the Director's office?

A Pardon?

Q Did I hear you say that you didn't have confidence in the Director's office?

A No, sir, you didn't hear me say that.

Q Who did you have confidence in, Mr. Forrest?

A I have quite a bit of confidence in myself.

Q Just, did you say you have no confidence in somebody, just now to Mr. Fleming?

A Yes, sir.

Q And who was this that you had no confidence in?

A Justice.

Q Justice? You don't have any confidence in Justice? Is that it?

A I didn't have any confidence in anything of any consequence that would come out of it.

Q In other words, I take it that you are pretty much down on the justice of this community? Is that what you are saying?

MR. FLEMING:

Objection.

THE COURT:

Overruled.



A Inform me of the terminology, down.

Q (By Mr. Laurie) Say that again?

A Inform me of the terminology you are using, down.

Q You said you don't have any confidence in justice. Are you telling this jury that you didn't have any confidence in the justice in this community?

MR. FLEMING: Objection.

THE COURT: Overruled.

A I don't have any confidence that anything would come of the report, you know.

Q Well, did you -- withdraw that.

You say that --

THE COURT: Ask your question,

Mr. Laurie.

Q You say that you are employed at the Cafe Tiajuana, sir?

A Yes, sir.

Q 105th and St. Clair?

A Yes, sir.

Q You are a manager of a liquor establishment?

A Yes, sir.

Q You have a criminal record of armed robbery and burglary and larceny?

A Yes, sir.

Q Who is the employer of that establishment?

A My employer?

Q Yes, of this Tiajuana.

A Mr. John Abbott.

Q John Adams?

A Abbott.

Q Abbott?

A Yes, sir.

Q Well, do you know where he lives?

A I don't have his address at hand.

Q I see. And you are definitely the manager of this liquor spot?

A Yes, sir.

Q And aren't you aware of the fact that persons with criminal records are not to manage liquor spots or have anything --

MR. FLEMING:

Objection.

MR. TOLLIVER:

Objection.

That's not true.

THE COURT:

The objection is

sustained.

MR. FLEMING:

Your Honor, we will

request that the jury be instructed --

THE COURT:

The jury is

instructed to disregard that question.

Q (By Mr. Laurie) Did you have an interview with the

employer when you got this job?

A No, sir.

Q Did you talk to the employer about working for him?

A Yes, sir.

Q Did you tell him about your background?

A No, sir.

Q I see. All right. And you said that you were charged with armed robbery. Did you do a little time on that?

A Yes, sir.

Q How much time did you do?

MR. FLEMING:

Objection.

THE COURT:

Sustained.

A Two years.

THE COURT:

The jury will

disregard the answer.

Q (By Mr. Laurie) After you, I take it you were paroled, is that right?

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

Q Were you paroled?

A Yes.

Q What happened, if anything, after you were paroled?

MR. TOLLIVER:

Objection.

THE COURT:

Sustained.

Q (By Mr. Laurie) What year were you paroled, sir?

MR. TOLLIVER: Objection to that.

THE COURT: Overruled.

A 1964.

Q 1964. And you say that you had another crime after that, breaking and entering; is that it?

THE COURT: He didn't say that; he said the last offense was in '61, the previous one.

Q I don't mean -- I mean, after that, you had a burglary and larceny charge?

THE COURT: Not after '64.

Q (By Mr. Laurie) After the first one, the armed robbery, there was another crime? Am I right?

A My statement was that my conviction for armed robbery was in 1953; and in 1961 I was convicted for burglary and larceny.

Q And you went to the penitentiary?

MR. TOLLIVER: Objection.

THE COURT: Overruled.

Q Did you, sir?

A Yes, sir.

Q And after you came out of the penitentiary, did you go to work?

A Yes, sir.

Q Where did you work?

A I worked down in Local 1317, the Longshoremen's Stevedores Union.

Q And who did you work for?

A Cleveland Stevedores Lederer Terminals, Gateway.

Q And immediately before this job with the bar, where did you work then, sir?

A Before the job with the bar?

Q Yes, immediately before.

A Before that job, I worked in Cleveland PRIDE.

Q What is Cleveland PRIDE?

A That's a poverty program, so to speak.

Q A poverty program?

A Yes.

Q You mean you were employed by Cleveland PRIDE?

A Yes, sir.

Q On a salary basis?

A Yes, sir.

Q What did you do for Cleveland PRIDE?

A I was Hough Area Director.

Q And what did your work consist of?

A Directing.

Q Pardon?

A Directing.

Q What did you do, sir?

A I directed my staff at Cleveland PRIDE, that

supervised a number of youths.

Q And?

A Work activities, and cleaning up the community, and rehabilitating the community, and they worked in rodent control, PRIDE programs.

Q How long were you so employed?

A For the interim of the summer.

Q For the summer?

A Right.

Q Which summer, sir?

A Last summer.

Q '68?

A Right.

Q Summer of '68?

A Right.

Q And then you left that job and you went to work for Cafe Tiajuana?

A Yes, sir.

Q And last summer -- withdraw that.

When did you first become a Black Nationalist?

A You mean, when did I first become political?

Q Well, are you political in the Black Nationalists?

A I think you would have to be political to be a Black Nationalist.

Q Explain to the jury how you became political, belonging to the Black Nationalists?

A By taking a political stand.

Q What is the political stand of the Black Nationalists?

A Nationhood.

Q Nationhood?

A Yes.

Q For who?

A Black people.

Q For the black people?

A Yes.

Q You mean is this a revolutionary group?

A Pardon?

Q A revolutionary group?

A What would you term revolutionary?

Q Creating your own nation within a nation?

A You didn't answer me.

Q You answer the questions. What is a nationhood philosophy of the Black Nationalists?

A What's the nationhood philosophy of the Black Nationalists?

Q Yes.

A Self determination, a nation.

Q To become a nation?

A Yes, sir.

Q Within the boundaries of this country?

A Yes, sir.

Q What is the philosophy, to take over the Government?

MR. FLEMING: Objection.

THE COURT: Overruled.

THE WITNESS: The question  
still stands?

THE COURT: Yes, you may  
answer.

THE WITNESS: No, sir; no, sir.  
Israel didn't take over a Government to become a  
nation, did it?

Q In other words, your philosophy of the Black Nation-  
alists that you adhere to is the creating of a nation  
within a nation, am I correct?

A Yes, sir.

Q And where is this plan to build this nation at?

MR. FLEMING: Objection.

THE COURT: Come up.

(Whereupon a discussion was held between  
Court and counsel, outside the hearing of the jury,  
and off the record.)

THE COURT: Objection overruled.

MR. LAURIE: Withdraw the last  
question.



Q (By Mr. Laurie) How did your organization that you are affiliated with plan to effectuate a nation within a nation?

A Sir, I do not belong to an organization.

Q You belong to the Black Nationalists, you said.

A No, sir, I said I have a political belief which is Black Nationalism.

Q Yes, and this is a political philosophy of yours, is that right?

A Yes, sir.

Q Which includes creation of a nation within a nation, according to what you said, am I right?

A Did I say that, sir?

Q Yes, sir.

A I said that could be done.

Q Yes, and how was this going to be done?

A But there is also other means of coming into nationalism; there are different theories advanced on it.

Q Well, this philosophy --

A One is back to Africa, which Marcus Garvey advanced some years ago, and some people aspire to that now.

Q But the philosophy you adhere to is with the use of violence, isn't it?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

Q (By Mr. Laurie) Isn't it?

A No, sir.

Q You don't advocate the use of violence?

A No, sir.

Q And the Black Nationalists that you are in sympathy with do not own guns, is that right?

MR. FLEMING: Objection.

THE COURT: Sustained.

Q (By Mr. Laurie) This Black Nationalism that you refer to, they have their own flag, don't they?

A All Nationalists outfits have flags.

Q You mean there are various types of Nationalist organizations?

A Yes, sir.

Q Well, name me a few.

A Well, the Negro Improvement Association, Mark of Godfrey, that's one that comes to mind.

Q That's one? And what is the color of the flag of the Black Nationalist?

A All that I see were red, black and green, that combination of colors.

Q And as far as when you saw those colors, never has there been an American flag that stands next to it, does it?

A I don't recall.

Q You don't recall, all right, and Mr. Evans, the

defendant here, you are acquainted with him, aren't you?

A Acquainted?

Q You know him?

A Yes, sir.

Q Have you seen him before?

A Yes, sir.

Q Under what circumstances have you seen him before?

A We both live in the black community.

Q Where did you see him in the black community?

A Throughout the black community.

Q Do you know whether Mr. Evans is a Black Nationalist?

A I believe that that is his philosophy that he aspires to.

Q Do you know where he has a shop or had a shop?

A Yes, sir, I know where he had a shop.

Q Where was his shop?

A East 111th Street.

Q And what was the name of that shop?

A I don't recall.

Q The New Libya?

A Yes, sir.

Q And was he the leader of the group of New Libya Shop?

A I could only assume that he was.

Q You went in there, didn't you?

A Yes, sir.

Q And you saw some of the brothers and sisters in there, didn't you?

A Yes, sir.

Q And they dressed in the Afro garb, don't they?

A Yes, sir.

Q Do you dress in that Afro garb, too?

A On occasion.

Q Incidentally, what is your Afro name?

A Pardon?

Q What is your Afro name?

A I don't have an Afro name.

Q All you have is a slave name?

A Yes, sir.

Q What is your slave name?

A Albert Allan Forrest.

Q And you never took upon yourself an Afro name?

A No, sir.

Q All right, how often did you go and visit Brother Evans in his shop on Superior?

A Well, on a number of occasions. I gave him some of my art.

Q You gave him some of your art?

A Yes, sir.

Q And did you see any weapons when you went in there?

A No, sir.

Q You never saw any weapons at all?

A No, sir.

Q Did you ever come across a man by the name of Lathan Donald in there?

A Yes, sir.

Q Was he one of the brothers?

A Yes, sir.

Q How about Leslie Jackson? Osu Bey?

A Who?

Q Osu Bey?

A No, I don't know anyone by the name of Osu Bey.

Q And Hardrick, the slave name of Hardrick?

A No.

Q Do you know these boys better by their Afro names than their slave names?

A Pardon?

Q Do you know these fellows better by their Afro names than their slave names?

A I don't know, if you call some names and I don't know them, how could I determine if I would know them better by another name?

Q Bernard Donald?

A No, sir.

Q James Taylor -- did you know him?

A Yes, sir.

Q And was he one of the brothers?

A Yes, sir.

Q James Taylor is the man that you saw behind 1395?

A Yes, sir.

Q When you were back there?

A Yes, sir.

Q On Lakeview Avenue or Road?

A Yes, sir.

Q And this Mr. Williams, was he the man that you saw on the corner of Beulah and 123rd Street?

A That's what the paper said his name was.

Q Didn't you know him?

A No, sir.

Q Well, you saw him there, lying on the ground, didn't you?

A Yes, sir.

Q You saw him there, with bandoleers on?

A Yes.

Q You saw him there with his weapon, too?

A Yes, sir.

Q You hauled him away?

A No, sir.

Q You didn't take him away?

A No, sir.

Q You didn't take his bandoleers or gun away from him?

A No, sir.

Q You were there when the man was on the ground, though?

A Yes, sir.

Q You attempted to do something with this man?

A Yes, sir.

Q What did you attempt to do?

A I attempted to help him.

Q You attempted to help him?

A Yes.

Q How did you attempt to help him?

A I came to his aid, to try to help him.

Q What did you do, sir?

A The brother was in agony, I wanted to take him to the hospital.

Q And did you take him?

A No, sir.

Q Did you carry him anywhere?

A No, sir.

Q You never moved this man?

A No, sir.

Q And when he was lying there, he had a glove on his left hand, didn't he?

A He had a glove on.

Q On his left hand?

A I don't recall.

Q Which is to hold the hot rifle, isn't it?

MR. TOLLIVER: Objection.

MR. FLEMING: Objection.

THE COURT: Do you know?

THE WITNESS: I don't know.

He had a glove on.

Q (By Mr. Laurie) Do you know what the purpose of the glove on the left hand was?

A I don't know what hand it was, the left or right, I can't remember.

Q You are familiar with guns, aren't you?



MR. FLEMING:

Objection.

THE COURT:

Overruled.

Q (By Mr. Laurie) You are familiar with guns, aren't you?

A Somewhat.

Q Sir, you have owned a gun or two in your life, haven't you?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

A The conviction of armed robbery establishes the fact that I might have owned a gun.

Q (By Mr. Laurie) Yes. What kind of gun was that?

A Pardon?

Q What kind of gun was that?

A I didn't say I owned a gun.

Q Well, was there a gun involved in that armed robbery?

A No, sir.

Q You didn't have a gun?

A No, sir.

Q I see. But you were convicted for armed robbery?

A Yes, sir.

MR. TOLLIVER:

Objection to that.

THE COURT:

Overruled.

Q (By Mr. Laurie) Have you owned a gun in your life?

A Yes.

Q What kind did you own?

A A .38 revolver.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

Q (By Mr. Laurie) A .38 revolver?

A Yes, sir.

Q Do you own a gun now?

A No, sir.

MR. FLEMING: Objection.

THE COURT: Sustained.

Q Have you ever owned a carbine?

A No, sir.

MR. FLEMING: Objection.

THE COURT: Overruled.

MR. FLEMING: Withdraw the  
objection.

Q A shotgun?

A No, sir.

Q Are you familiar with carbines and shotguns, sir?

MR. TOLLIVER: He just answered  
that.

THE COURT: Overruled.

A I am familiar with carbines.

Q (By Mr. Laurie) How did you become familiar with

a carbine?

A United States military service.

Q You have been in the service, then?

A Yes, sir.

Q What service -- when were you in the service?

A From the 1st of October, 1948 through the 15th of October, 1952.

Q And was that on this side or the other side?

A Both sides.

Q Both sides. And what type of discharge did you get?

A Under honorable conditions.

Q Pardon?

THE COURT: Under honorable conditions.

Q (By Mr. Laurie) Under honorable conditions?

A Yes, sir.

Q Then, sir, bringing you down to your visit on Lakeview and Auburndale, how did you happen to get in the Lakeview area?

A I was headed in that direction, on 123rd, at approximately the time that this happened.

Q Were you with some of the other brothers?

A No, I was alone.

Q You was alone. And what brought you in that area?

A That's the route I was taking.

Q That's the route you were taking to go where?

A Home.

Q And your home at that time was where?

A 1564 Ansel Road.

Q And Auburndale and Lakeview is past 123rd, 124th Street; isn't it?

A Sir? I didn't go to Auburndale.

Q Well, Lakeview Avenue is close --

A Lakeview and Superior.

Q That's about 123rd or 124th?

A Right.

Q Off of Superior?

A Right.

Q How close is Ansel Road to Lakeview?

A About eight or nine blocks.

Q I see, and you were coming from where, sir?

A Forest City Lumber Company.

Q Were you working on that day?

A I did work that day.

Q Where were you working?

A Cleveland PRIDE.

Q Pardon?

A Cleveland PRIDE.

Q Cleveland PRIDE?

A Yes, sir.

THE COURT: Mr. Laurie,  
we will take a very short break at this point.  
It will be just ten minutes.

You will be called back at five minutes  
after 3:00, and counsel will make arrangements to  
be here at five minutes after three.

Don't talk to anybody and don't let anybody  
talk to you while you are away from the courtroom.

(Thereupon a recess was had.)

- - -

(State's Exhibit 259  
was marked for identification.)

MR. FLEMING: May we approach  
the bench, your Honor?

(Thereupon a discussion was had between  
the Court and counsel, outside the hearing of the  
jury, and off the record.)

Q (By Mr. Laurie) Mr. Forrest, would you know the  
following persons by their Afro names, Non Du, do you know  
him?

A Yes, sir.

Q Non Du Bey?

A I know Non Du, if that's the same person.

Q Osu Bey?

A I don't know anyone of the name of Osu Bey.

Q You have to speak up.

A I don't know anyone by the name of Osu Bey.

Q Little Ahmed?

A Yes, sir.

Q Little Rasheen?

A No, sir.

Q Ollie Bey?

A Yes, sir.

Q Donald ML?

A No, sir.

Q Wolf Bay?

A Yes, sir.

Q Running Deer?

A No, sir.

Q Unknown Ali Bey?

A No, sir.

Q These names you have just mentioned are all brothers, aren't they?

MR. FLEMING: Objection.

A If I don't know them --

Q That you recognized.

THE COURT: Overruled.

Q The ones that you recognized.

A The ones that I recognize, yes, sir.

Q All right. Now, sir, the man -- showing you State's Exhibit -- I mean Defendant's Exhibit YY (indicating), do you recognize him?

A Yes, sir.

Q Was that the boy that you saw at 123rd and Auburndale?

A Yes, sir.

Q I mean Beulah?

A Beulah.

Q 123rd and Beulah?

A Beulah.

Q That's the man you saw lying on the sidewalk with the

and his gun on him?

A On the tree lawn.

Q That's the man you took up on Superior, didn't you?

A No, sir.

Q You took him up there to incite the rest of the people?

A No, sir.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q Well, he was removed --

MR. TOLLIVER: Objection.

Just a minute. I ask that those remarks be disregarded.

THE COURT: The jury under-

stands you will disregard questions and answers sustained.

Q He was removed from that area, wasn't he?

A I don't know.

Q By some brothers, wasn't he, and sisters?

A I don't know.

Q What did you do, leave him there and you left?

A I had to leave. The police were shooting at me.

Q They told you to get the hell out of there?

A Right. They said, "Let the nigger die."

Q They told you to get out of there, take care of your work?



A He said, "Let the nigger die."

Q You dislike police officers, don't you?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q You dislike --

A If the policemen did something offensive to me, I would dislike them.

Q Otherwise, you don't dislike, only when they do something offensive?

A That's right.

Q You respect a police officer otherwise, is that it?

A Yes.

Q This particular night, these police officers, all they were was offensive to you?

A All I came in contact with.

Q All you came in contact with. They were merely trying to do their jobs, weren't they?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

A They did --

Q You are not a police officer, are you, sir?

A No, sir.

Q You weren't commissioned to hold the peace out there, were you?

A We all are morally commissioned to hold the peace.

Q When you see a robbery, do you go in and help the police, too?

MR. FLEMING: Objection to  
yelling at the witness.

THE COURT: Objection sus-  
tained.

Q When you see another type of crime, do you go in and help the police?

MR. FLEMING: Objection, same  
objection.

THE COURT: The objection is  
sustained.

Q How did you get in contact with Detective Moss, sir?

A He came up on the corner of Lakeview and Superior and I was standing on the corner there.

Q And did you join up with him?

A Yes, sir.

Q Detective Moss, or rather -- I don't know his title now. He is with the Director's office, isn't he?

A He is in some official capacity.

Q He is with that office that you said you had no confidence in, isn't he?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q Director Moss, you knew him, didn't you?

THE COURT: Not Director.

Q Well, Assistant Director, whatever he is, Officer Moss, you knew him, didn't you?

A I knew Officer Moss.

Q Yes. And he used to be a member of the Cleveland Police Force before he got down in City Hall, isn't that right, sir?

A Yes, sir.

Q And he knew you, too, didn't he?

A I imagine he would know my face. He patrolled in the community that I lived in for practically all my life.

Q Lieutenant Moss is a policeman of long-standing, isn't he?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q Pardon? Isn't he?

A As far as I know.

Q You had some dealings where he knew you were involved in, didn't he?

MR. FLEMING: Objection.

MR. TOLIVER: Objection.

THE COURT: Sustained.

Q Are you telling us that Lieutenant Moss took you in

his car and took you in that area, is that what you are saying, sir?

A Yes, sir.

Q Well, he knew you had a record, didn't he?

A I don't know if he knew or not.

Q You never discussed Moss, your background with him?

A Pardon?

Q Did you ever discuss your background with Moss as a police officer?

A Did I ever discuss what?

Q Your background with him?

A No, sir.

Q Well, how did you get to know Mr. Moss then?

MR. FLEMING: Objection.

THE COURT: Are you directing questions as to how he got in his car that night?

MR. LAURIE: No, first of all, I want to know what his association, how did he get to know Detective Moss.

MR. FLEMING: Objection.

THE COURT: Overruled.

Q How did you get --

A Well, I got to know him that night, you know, on a personal basis, whereas he knew my name. We were introduced at that time.

Q Then he was familiar with you?

MR. TOLLIVER:

Just a minute.

Let him answer the question.

THE COURT:

Sustained.

Q You say he invited you in his automobile to go to this area?

A No, sir.

Q How did you get in his automobile?

A The Community Relations Director invited me into the automobile to go to the hospital.

Q Who was the Community Relations man?

A The Community Relations Director, Mr. Bertram Gardner.

Q Was he with Detective Moss?

A Yes, sir.

Q You went to the hospital then?

A Yes, sir.

Q What hospital?

A Forest City Hospital.

Q Who did you see there?

A We didn't see anyone except some people, you know, they had patients, as in the reception room, as any hospital would, the emergency room.

Q They had a lot of patients in the hospital. Did you see anybody in particular?

A Not that I knew.

Q What did you go to the hospital for?

A The purpose of going to the hospital was to see had any more bodies been brought in from that area.

Q Any more brothers or policemen?

A Bodies.

Q Bodies. In other words, you were looking for police bodies, too?

MR. TOLLIVER: Objection.

THE COURT: Overruled.

A Sir, I don't know exactly what they were looking for. I was invited.

Q (By Mr. Laurie) You were invited?

A Yes, sir.

Q You don't know what you were invited for?

To go along, is that it?

A I couldn't specify whether they was talking about police bodies or Black Nationalists' bodies.

Q Did you have a weapon on you?

A No, sir.

Q Then you went back to the Lakeview area, is that it?

A Yes.

Q And about what time was this when you returned to the Lakeview area?

A I don't recall.

Q What did you do with your car, that you had there in the beginning of the evening?

MR. FLEMING: Objection.

THE COURT: Overruled.

A I left it on Superior.

Q You left it on Superior?

A Yes, sir.

Q Incidentally, what time was it that you had left it on Superior?

A I don't recall.

Q You don't recall?

A No.

Q Was it dark when you left it there?

A No, sir.

Q It was still light?

A Not quite dark.

Q And you were coming from work, you said; is that it?

A No, sir, I didn't say that.

Q Didn't you say you were working for the Cleveland PRIDE that day?

A I worked for Cleveland PRIDE that day.

Q What time did you get through?

A 4:30 - 5:00 o'clock. I don't recall.

Q Where did you go after you got through with the Cleveland PRIDE?

A I went to the main office on 110th and St. Clair.

Q How long did you stay there?

A I don't recall.

Q A couple of minutes? A couple of hours?



A I don't recall.

Q You don't recall. All right.

Then, what did you recall doing next, after 5:30, stopping first there?

A Next I recall going to Forest City Materials Company.

Q What did you go there for?

A For my art materials.

Q Your art material?

A Yes, sir.

Q What did you buy?

A Framing material.

Q Pardon?

A Framing material.

Q Framing materials?

A Yes, sir. \_\_\_\_\_

Q How many frames did you buy, or material for frames?

A I don't recall.

Q What Forest City did you go to?

A On St. Clair.

Q St. Clair and what?

A I don't know.

Q You don't recall. All right.

After doing that, what did you do next, then?

A I came back down St. Clair to 125th Street, turned left on 125th Street, turned right on Arlington, went to

123rd, turned left on 123rd.

Q You recall all those pretty good, don't you?

A Yes, sir.

Q No problem in that?

A No, sir.

Q All right.

A It's the route I always take.

Q Then you got out of the car and went on foot in the area, is that it?

A Yes, sir.

Q And you were going in there to do what, sir?

A Observe.

Q Observe. You were interested in seeing what was going on?

A Yes, sir.

Q And had you heard anything over the radio at that time?

A No, sir.

Q And so then you proceeded and you went straight to Beulah Avenue and 123rd, is that right?

A No, sir.

Q How did you get --

A I didn't go straight to Beulah.

Q How did you get there?

A A youth told me about this body around there.

Q Pardon? A youth?

A A youth.

Q A brother?

A He's black.

Q Other than being black, is he a Black Nationalist?

A He's black. Black makes him a brother.

Q Not all blacks are Black Nationalists?

A But all blacks are brothers.

Q I'm talking about a Black Nationalist.

Did he stop you?

A No, sir, not that I know of.

Q It was just a negro man?

A He's a black man.

Q Is there a difference between a negro and a black man?

MR. TOLLIVER:

Objection.

THE COURT:

Overruled.

Q Is there, sir?

A It's a terminology that I don't care to use.

Q Well, is it more correct for me to say "black man" than "negro"?

A I would think so.

MR. FLEMING:

Objection.

THE COURT:

Overruled.

Q (By Mr. Laurie) Is there, sir?

A I would think so.

Q Then you saw a black man stop you, is that right?

A A black youth.

Q A black youth?

A Yes, sir.

Q And he told you what was going on?

A He told me about this body.

Q Pardon?

A He told me about this body on 123rd and Beulah.

Q Who was this black man that stopped you?

A He was a stranger to me. He was a youth.

I didn't know him. He didn't stop me. I was standing there.

Q Then a plain stranger came up to you and told you about a dead body?

A It's not unusual for people to comment about an incident of that nature.

Q I didn't ask if that was unusual.

A Everybody was making comment.

Q I am saying, this man was a total stranger to you?

A Yes, sir.

Q Then this total stranger came up to you and told you about a dead body, is that right, sir?

A Yes, sir.

Q And in response to that, you went to see this dead

body?

A In response to that, I told him to show me.

Q Did he take you down there?

A Yes, sir.

Q And before you went down there, did you get some more help somewhere?

A No, sir.

Q Did this black man have a gun?

A No, sir.

Q And then when you went down there, you encountered the officers and they told you to get the hell out of there?

A Yes, and "let the nigger die."

Q And then you complied with that? Is that right, sir?

A Yes, sir.

Q And then where did you go?

A Back to Superior and Lakeview.

Q What did you go back there for?

A To stand and observe.

Q Stand and observe. And what did you stand and observe at that time?

A Police milling around. Shooting, I could hear shooting.

Q On Lakeview and Superior?

A I could hear the shooting.

Q They were shooting there on Lakeview and Superior?

A No, sir. I said I could hear the shooting.

Q I see. Then what did you do?

A Well, I stood there until the Community Relations Director and Mr. Moss and people in that particular entourage came up.

Q There was an entourage, you say?

A Well, it was a police -- another police officer, Officer Edgar Bailes, Walter Beach from the Mayor's Youth Commission, and --

Q A man by the name of Omar, another black brother?

A No, sir.

Q Wasn't he there?

A No, sir.

Q Was Councilman Forbes there?

A I don't recall.

Q You mean he could have been there?

MR. TOLLIVER: Objection.

MR. FLEMING: Objection.

THE COURT: Sustained.

Q (By Mr. Laurie) When you recall, you say you have no memory whether he was there or not, is that it?

A Yes, sir.

Q Now, for a moment taking you back to Beulah and

123rd Street, when you saw Brother Williams laying on the street there, what kind of gun did you observe him having at that time?

A I didn't observe a gun.

Q You didn't observe a gun?

A No, sir.

Q I thought you said, earlier, you saw he had bandoleers and a gun?

A No, sir. I saw a bandoleer.

You asked me, did I see bandoleers? And I said yes, sir.

Q What kind of ammo did he have in the bandoleers?

A A shotgun shells.

Q All right. And then I take it, sir, that you went behind 12395 with Detective Moss, then, and other people; is that right, sir?

A No, sir, I didn't go back there behind that address with Detective Moss.

As I stated earlier, he stayed in the front of the building.

Q I thought I understood you to say -- I may be wrong -- that you and Detective Moss and some other black brothers were in the back at 1395?

A No, you're wrong.

Q Then who did you go back there with, sir?

A Three other brothers.

Q Who were those three other brothers?

A Albert Rabbane, Harllei Jones, and Wilbur Grafton.

Q Who is Harllei Jones?

A Harllei Jones.

Q Is he a Black Nationalist?

A Yes, sir.

Q Is he a leader of another set called the Afro Set?

A Yes, sir.

Q Who is the third man? Who was the third man?

A Wilbur Grafton.



Q Is he the leader of the Afro Cultural Center, another Black Nationalist organization?

A I don't know.

Q You don't know that. And there were the four of you back of 1391, is that right, sir?

A Right.

Q And were the houses burning at that time?

A Yes, sir.

Q And you saw Reverend Perryman back there, too, didn't you?

A Yes, sir.

Q You smacked him in the nose, too, didn't you?

A I knocked him down.

Q You knocked him down?

A Yes, sir.

Q All right. And you knocked a man of the cloth down without hesitation, didn't you?

A Yes, sir, the man in the cloth, when I asked him to help me put the body on the stretcher, put the brother on the stretcher, he said, "F the brother. My building is burning," and I says, "Sir, you put material values before human values," and I knocked him down.

Q There were police back there, too, weren't there?

A Yes, sir.

Q And they were trying to do their job back there,

weren't they?

A Sir,, the only job that I know that they did back there was on me.

Q On you? They broke that fight up, is what they did, isn't it?

A Yes, sir.

Q All right. And at that time you weren't commissioned by anybody to do police work, were you?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q Were you, sir?

A No, sir.

Q And didn't the police tell you to get the hell out of there, too?

A Not at that point.

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

MR. FLEMING: Objection to

yelling at the witness.

THE COURT: Yes --

Q They allowed you to stay --

THE COURT: Modulate your tone slightly.

MR. LAURIE: I will stand back.

Maybe I can use the same voice back here. It

wouldn't sound so bad.

Q Didn't the police tell you to get the hell out of there, like they did before?

MR. FLEMING: Same objection,  
Judge.

THE COURT: Sustained.

Q But you were insisting on taking over some of the police work, weren't you?

MR. FLEMING: Objection.

THE COURT: Overruled.

A No, sir.

Q You were trying to get those bodies out of there, weren't you?

MR. FLEMING: I object to his  
yelling at this witness in this manner.

THE COURT: Overruled.

A I was trying to get the live person out of there to get him some medical aid.

Q However, sir, the law enforcement people did take those bodies out of there, didn't they?

A I don't know who took them out. I was in the hospital.

Q And if you people hadn't interfered back there, you and your brothers, they would have probably been out of there even sooner?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

A No, sir, --

THE COURT: Just a minute.

Q Tell me, Mr. Forrest, who is the head of the Cleveland Pride?

A Reverend Baxter Hill is Executive Director.

Q And Baxter Hill is a brother?

A He's black.

Q Other than being black, is he a brother Black Nationalist?

A I don't know what his political convictions are.

Q And does he -- what title does he hold?

A He is Director of Cleveland Pride. He is affiliated with the Community Relations.

Q What title does he hold?

A Where?

Q Pardon?

A In what office?

Q Whatever offices he has.

A Well, he's --

MR. TOLLIVER: Note our continuing objection, Judge.

A Well, he's a Reverend in the Christian ministry.

He is Executive Director of Cleveland Pride and I don't know what his station is with Community Relations.

Q Do you know what type of clothing the Reverend Hill wears?

MR. FLEMING: Objection.

MR. TOLIVER: Objection.

THE COURT: You are asking

what type did he have on that night?

Q Well, on that night. Yes, that's a good time to ask that question.

MR. FLEMING: What night?

MR. LAURIE: The night when he saw Baxter Hill.

MR. FLEMING: Objection.

Q On the night --

THE COURT: Overruled.

Q Did you see Mr. Baxter Hill that night on the 23rd or early morning of the 24th?

A No -- you mean after the incident started?

Q Yes.

A I don't recall seeing him.

Q You don't recall seeing him in and about the area?

A I don't recall seeing him.

Q Isn't it a fact that Reverend Hill wears some sort of blue jeans and a jacket and stars on his shoulder?

MR. FLEMING: Objection.

THE COURT: As to when?

Q This is his general uniform or clothing?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q Do some of the brothers that belong in the Black Nationalists have an insignia of the stars on their shoulders?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Overruled.

Q Don't they, sir?

A I never knew any.

Q Don't they have titles as Defense Ministers and the like in the organization of Black Nationalism?

MR. TOLLIVER: Objection.

A Sir ---

THE COURT: Overruled.

A Sir, I stated that I didn't belong to the organization of Black Nationalists. I stated that this is my political convictions.

Q These political convictions of yours encompass a set of positions that people have in the Black Nationalists which calls for a title status of Defense Minister, for example?

A Are you telling me or asking me?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q I'm asking you.

THE COURT: Do that.

A Please restate the question.

Q Do some of the officials of the Black Nationalism who subscribe to this political view that you say they have, do they have titles such as Defense Minister?

A Yes, sir.

Q And what other Minister titles do they have?

MR. TOLLIVER: Objection to the question.

THE COURT: Overruled.

Q What other ---

A I don't recall.

Q -- ministerial titles do they have?

A I don't recall all the titles that they have.

Q Some of them.

A Minister of Education, Minister of Information, Minister of Culture.

Q And Mr. Evans has a title of Prime Minister, doesn't he?

A I don't know.

MR. TOLLIVER: Objection.

THE COURT:

Overruled.

Q Pardon?

A I don't know.

Q You don't know if he has a ministerial title?

A No, sir, I don't know.

Q You don't know. How were you informed to come down and testify in this case, sir?

A Someone came to my house last night.

Q Do you know who?

A No.

Q Well, who did that someone talk to?

A My mother.

Q And you got the message from your mother?

A Right



Q And was the message to appear here at the Criminal Court to testify?

A The message was to answer -- to come down. There was a subpoena for me to appear in court today and to come down here today and get in touch with a Mr. Young.

Q A Mr. Young?

A Right.

Q Do you know this Mr. Young you were supposed to get in touch with?

A No, sir.

Q Where were you supposed to get in touch with him?

A She didn't remember. She knew it was down here somewhere.

Q Where were you supposed to meet him?

A She didn't remember. She said it was down here.

Q Where is "down here"?

A 21st and Payne.

Q 21st and Payne. You were supposed to meet him on the corner of 21st and Payne?

MR. FLEMING:

Objection.

THE COURT:

Overruled.

A Sir, you know, we -- you know we refer to 21st and Payne as "down town."

Q Yes?

A And everybody in the black community knows what

"downtown" is, you know, when the police say, "I'm going to take you downtown," people -- we know that they're not talking about the Terminal Tower.

Q Yes. What are they talking about?

THE COURT: Okay. The question is: Where were you supposed to meet Mr. Young? Was it in the courthouse, that you understood?

THE WITNESS: She didn't relay the message to me.

THE COURT: Where was it understood?

THE WITNESS: What I understood was that a subpoena was issued for me.

So, my intelligence told me to come down here.

THE COURT: To the courthouse?

THE WITNESS: Right.

THE COURT: All right. Proceed.

Q (By Mr. Laurie) I see. And you are familiar with another courthouse in downtown, too, aren't you, other than down here, aren't you?

MR. FLEMING: Objection.

THE COURT: Sustained.

Q There is the city courthouse, too, isn't there?

MR. FLEMING: Objection.

THE COURT: Sustained.

Q Anyway, you didn't know this Mr. Young? Is that right, sir?

A No, sir.

Q While you are talking about "we of the black people know what 'downtown' is," do you also have the information that police are called "beasts"?

MR. TOLLIVER: Objection.

A Yes, sir.

THE COURT: Sustained.

Q (By Mr. Laurie) Now, not knowing Mr. Young, what did you do to find a Mr. Young when you came downtown?

A I came down -- I went -- I went upstairs in the building over here, to the Detective Bureau, and they told me to come over here to the Clerk of Court, and I came over here to the Clerk of Court and they gave me a subpoena and told me to bring it up to the assignment room.

Q You went upstairs and then they referred you to the Clerk of Court in this building? Is that it?

A Right.

Q You never did find a Mr. Young?

A No, sir.

Q I see. And you haven't talked to a Mr. Young since, have you?

A Not that I know of.

Q I see. And you talked to nobody until the bailiff

called your name out, and out in the hallway; is that right?

A No, that's not right.

Q Who did you talk to?

A I talked to a number of people out there.

Q Who did you talk to out there, sir?

A I talked to Mr. Tolliver.

I talked to the deputy sheriff, and I talked to two people downstairs, seeking information, and I talked to the people in the Clerk of Court's office.

Q And when you talked to Mr. Tolliver, did you talk about what you know about the case?

A No, sir. He asked me, was I subpoenaed to testify in this case? And I told him, yes.

Q You mean Mr. Tolliver asked you if you were subpoenaed? He didn't know?

A That's what he asked me.

Q All right. Did you talk to Mr. Fleming, too, sir? Do you know Mr. Fleming?

A Yes, sir.

Q Did you talk to him out there, too?

A Yes, sir. Just before court recess.

Q Did he ask you the same questions that Mr. Tolliver asked you?

A No, sir.

Q Did you talk to him about your information that you may know about this case?

A He asked me, he asked me about my involvement in the case, with the incident on 123rd.

Q Did you know Mr. Fleming or Mr. Tolliver before today?

A By sight.

Q I see. You never did go to them and tell them anything you knew before today, then?

A No, sir.

Q And, incidentally, how did you get down here, to downtown?

A I drove down.

Q By yourself?

A Yes, sir. —

Q You were not with other brothers and sisters?

A Not this morning, sir.

Q Not this morning?

A No, sir.

Q And then you have talked to nobody about your testimony as such, is that your answer, sir --

MR. FLEMING: Objection.

Q -- except to Mr. Fleming a little bit?

A When you say talked about my testimony, are you talking -- you mean have I talked with everybody since I've been on the stand testifying, is that what you're asking me?

A No, I'm talking about before you came down here, did you talk to somebody about your testimony, other than the short conversation you had with Mr. Fleming?

A No, sir.

Q Pardon?

A No, sir.

Q No, sir. And then, this is the first time that we are hearing anything you have to say about the facts as you saw them, publicly?

A When you say "we," who are the "we" talking about?

Q We the people.

MR. FLEMING: Objection.

THE COURT: Sustained.

Q You never went down to the Police Chief and told him

anything about these brutalities that you have testified to, have you, sir?

A No, sir.

Q You never went down to the City Hall to tell any of the City officials about these brutalities, did you, sir?

A Sir, I have seen too many questions of "justifiable."

Q Just answer my question.

THE COURT: Answer the question.

A No, sir.

Q Did you go to City Hall?

A No, sir.

Q Did you go and find Detective Moss on the scene? and tell him about the brutalities you received?

A He was there.

Q He saw this?

A He saw me in the bloody condition with blood all over my face.

Q Did you tell him who did this?

A Yes.

Q Did you?

A I stated this.

Q You told him?

A I stated it. I don't know if I stated it to him.

MR. LAURIE:

That's all I

have of this witness.

REDIRECT EXAMINATION

BY MR. FLEMING:

Q Do you have your subpoena?

A Yes, sir.

(The documents were handed to counsel.)

A And this was given to me this afternoon (indicating). But this is the one -- this is the one that was given to me this morning (indicating) and this is the one that was given to me by someone out there this afternoon (indicating).

Q You are here testifying pursuant to a subpoena of this Court, are you not?

A Yes, sir.

Q I believe Mr. Laurie asked you something about when you were in the Army, were you over here and over there. Where did you serve in the Armed Forces?

A I went into the military service in Ft. Dix, New Jersey. I received my basic training. I went from there to camp in California where I embarked to Yokahama, Japan, where I was stationed until July of 1950 and when I embarked to Korea and I left Korea in September of -- pardon me, August, 1952 and came back to the United States to Indiantown Gap, Pennsylvania.

From Indiantown Gap, Pennsylvania, I was stationed



at Fort Lee, Virginia, and discharged from Fort Lee, Virginia.

Q And what kind of outfit were you in?

A In the Army?

Q Yes.

A I was in the Medics.

Q And do you have some knowledge of how to give first-aid and how to assist people who are wounded?

A Yes, sir.

Q And it was -- was it at your intention to help LeRoy Williams as you saw him laying on the street in the wounded condition that he was in?

A And the other brother, also.

Q And the brother behind the house, you intended to help him in the condition that he was in?

A Yes, sir.

Q As much as you could?

A Yes, sir.

Q Did you have any intention whatsoever to interfere with the police in whatever they were doing to stop whatever it was that was going on back there?

A No, sir.

MR. LAURIE: Objection to conclusions.

THE COURT: Overruled.

A No, sir. If I intended to interfere, I would have

had a gun.

Q Did you at any time, other than -- at any time did you interfere with the police in the work and/or the firemen in the work that they were doing on the scene?

A No, sir.

Q Did you do anything other than make an effort to assist this man who lay on the ground who thought he was injured with a bullet in his spine, did you do anything other than that?

A No, sir.

Q Before they attacked you back there?

A No, sir, other than knocking the preacher down.

MR. FLEMING: All right. You may inquire.

RECROSS-EXAMINATION

BY MRL LAURIE:

Q Did you give Brother Perryman any first-aid?

MR. FLEMING: Objection.

THE COURT: Overruled.

Q Did you, sir?

A No, sir.

Q Did you give any first-aid to any policemen that were laying on the streets of Lakeview and Auburndale and Beulah, wounded, and some mortally wounded?

MR. FLEMING: Objection. He didn't say he saw any policemen.

THE COURT: Overruled.

Q Did you, sir?

A As a matter of fact, I didn't see any.

MR. LAURIE: Thank you, Mr. Fleming, that's all I have.

MR. TOLLIVER: Objection. Ask the Court to disregard that.

MR. LAURIE: Ask the Court to disregard his statement he made out in the open, too, in front of the witness.

THE COURT: It looks like it's almost time for adjournment again.

REDIRECT EXAMINATION

BY MR. FLEMING:

Q Did you see any police officers laying in the street wounded, as described by Mr. Laurie?

A No, sir.

Q Did you see anybody laying in the street wounded, other than the two people you have testified about?

A No, sir.

MR. LAURIE: Because of Mr. Fleming's remark, I have no more questions

of this witness.

MR. TOLLIVER: Objection to that and ask the jury be instructed to disregard.

THE COURT: You are excused.  
(Witness excused.)

MR. LAURIE: Ask the jury disregard your remarks.

THE COURT: Counsel, come up.

(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury, and off the record.)

THE COURT: Ladies and gentlemen, we are going to adjourn at this time.

Once again I must repeat the admonition that I have given, maybe more forcibly on the weekend than during the course of the day, but the law places upon every Judge trying a criminal case, really any case, the responsibility of admonishing the jury every time you leave the court room.

You are not to talk with anybody about the case. Do not permit anybody to discuss the case with you. Do not formulate or express any opinion about how the case should be decided

until the matter is finally submitted to you who will decide the case.

So I am repeating the admonition previously given. Make sure you don't talk to each other about the case. Make sure you don't talk to anybody about the case.

If you lack for conversation of some type, I think the management of the Cleveland Indians needs a little assistance. Maybe you can talk about them, but don't talk about this case. Don't talk to each other about the case. Don't let anybody talk about it to you. Don't express any opinions with reference to it.

With that, we will adjourn until 9:15 Monday morning.

(Thereupon an adjournment was taken to 9:15 a.m., Monday, May 5, 1969, at which time the following proceedings were had):

- - -

THE STATE OF OHIO, )  
 )  
COUNTY OF CUYAHOGA. )

SS:

22  
MONDAY SESSION  
MAY 5, 1969  
McMONAGLE, J.

IN THE COURT OF COMMON PLEAS  
(Criminal Branch)

THE STATE OF OHIO, )  
 )  
Plaintiff )  
 )  
vs. )  
 )  
FRED AHMED EVANS, )  
 )  
Defendant )

# I N D E X

## WITNESSES:

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
Charles G. Cusick	4243			
Andrew Wright	4253	4260	4264	
Robert Thompson	4267	4273		
Glenn Billington	4279	4285	4288	
Sandra Parks	4290	4309	4378 4384	4383 4385
Mary Lou Bell	4387	4391		
Marthea Harrison	4393	4397	4398 4403	4399
Charles Louis Bryant	4405	4407	4409	

- - -

MONDAY MORNING SESSION, MAY 5, 1969

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness CHARLES G. CUSICK, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Cusick, will you state your full name to the Court and spell your last name.

A Yes, Charles G. Cusick. C-u-s-i-c-k.

Q Where do you live, Mr. Cusick?

A 1508 Bunts Road, Lakewood, Ohio.

Q What is your occupation?

A I'm the special agent in charge of the Cleveland division of the Federal Bureau of Investigation.

Q How long have you been so employed by the Federal Bureau of Investigation?

MR. MILLER:  
please the Court --

Your Honor, may it

THE COURT:  
Come up.

I know who you are.

(Thereupon a discussion was had between the



Court and counsel, outside of the hearing of the jury, and off the record.)

- - -

(Thereupon the following proceedings were had in the Court's chambers, outside the presence of the jury:)

THE COURT:                      You people got copies?  
It's a motion to quash the subpoena filed by the United States attorney.

MR. MILLER:                      And I received  
specific instructions from the Attorney General of the United States that Mr. Cusick is not to testify.

THE COURT:                      Do you have a copy  
of this letter?

MR. MILLER:                      Yes, sir.  
This is the pertinent part (indicating).

It provides, initially, getting time to ask for instructions from the Attorney General.

THE COURT:                      That we have been  
through.

MR. MILLER:                      Right. We went  
through that. Now he is directing me to advise you that he will not permit Mr. Cusick to testify in this matter.

MR. CORRIGAN:                      Your Honor, for the

record, while they are reading this order, the State will interpose an objection also, based on the fact that whatever Mr. Cusick would testify to would be hearsay, immaterial, irrelevant to this matter on trial; and the matter about which he would testify, as to that matter the State would be denied the right to cross-examine the witnesses, whoever they might be, who related whatever information Mr. Cusick may have.

THE COURT: Off the record.

(Thereupon a discussion was had between the Court and counsel, off the record, and not made a part of the record.)

THE COURT: Well, here, you, Mr. Miller, in connection with your motion to quash the subpoena, what do you have to say?

MR. MILLER: Well, I would move to quash the subpoena on the grounds of executive privilege. I have directions from the Attorney General of the United States, asking me to invoke the executive privilege and instructing Mr. Cusick that he is not to testify in this matter.

MR. FLEMING: Your Honor --

THE COURT: All right.

Now we will hear you.

MR. FLEMING: Your Honor, we would

object to the quashing of the subpoena. If he wants to exercise his executive privilege not to testify, pursuant to that order that is one thing; but this Court has a right to issue its own subpoenas and no governmental authority has the right to prohibit this Court from doing so.

Now, there is no need to quash the subpoena for him to exercise his executive privilege.

THE COURT: We consider that it's in the alternative, either a motion to quash the subpoena or that he not be required to disclose any portion of any records contained in any of the files of the department.

That is satisfactory, isn't it?

MR. MILLER: Yes, sir.

THE COURT: What do you say? What do you say about the second phase, the alternative as I stated?

MR. TOLLIVER: Judge, may I say this, then: If the Court is going to let -- cause the agent of the F. B. I. to exercise his privilege, then can't it be at least stipulated or admitted that an investigation is being made of these particular complaints and let at least the jury know that our persons are not just making up this story?

THE COURT:

Look at it.

Mr. Tolliver, we are at this: These two propositions in the alternative. Is it your position that upon the showing here, through the assistant attorney general of the United States, and Mr. Cusick, that the government desires that he exercise this executive privilege, that I command him to proceed despite this exercise of privilege? Is that your position?

MR. TOLLIVER:

I don't see how you could, Judge.

THE COURT:

Then, doesn't that dispose of this matter?

MR. TOLLIVER:

Except that we could, by agreement --

THE COURT:

Your agreement has to be with Mr. Corrigan and Mr. Laurie.

The witness did state that there is an investigation being conducted as a result of these complaints.

Is there any indication of any such agreement, Mr. Corrigan?

MR. CORRIGAN:

No, sir. I don't know what investigation is being conducted relative to this or any other, I don't know.

MR. FLEMING:

Your Honor, I think this, and I think that it ought to be in the record, that we all know that an investigation was made by the Federal Bureau of Investigation with regard to the matters that are presently before the Court.

Now, some of the questions that have been propounded by the State would cause it to appear that such an investigation was not made.

THE COURT:

Mr. Fleming, let's go back to what we have here. Is it your position now that despite the instruction of the Attorney General of the United States and the representation of the Assistant Attorney General here today, that it is the intention and desire of the government that they exercise the executive privilege; that I command this man to proceed and testify?

MR. FLEMING: Yes, we would request -- let me say this, under the Constitution --

THE COURT: Your feeling is that I should do that?

MR. FLEMING: Yes.

THE COURT: You have some authority?

MR. FLEMING: Except the Constitution of the United States which gives the Defendant the right to call witnesses in his defense and on his behalf and there is nothing in the Constitution of the United States that permits the exercise of the executive privilege to deny the Defendant that right.

MR. MILLER: Your Honor, I would like to call a citation to the Court's attention.

It is United States ex rel Touhy versus Rogers, 340 US 462, that stands for the proposition.

MR. FLEMING: I might say for the record that is also contained in the Constitution of Ohio and the United States.

MR. TOLLIVER: May we further say this, Judge, in the course of what Mr. Fleming

has said, the trial, as I understood, is supposed to be a search for the truth. Now, since the prosecution has made light of the fact that the FBI is investigating this matter, then, certainly, the jury would be entitled to know whether or not these witnesses who said they made a complaint are actually truthful or not truthful.

This is what we are attempting to show.

THE COURT:

Mr. Tolliver,

you said a moment ago that you felt that I should not require this witness to, apparently, ignore his instructions from the Attorney General, apparently based on some sound law here with reference to his exercising the executive privilege, that they apparently have the right to exercise, if they so desire.

MR. TOLLIVER:

May I answer

that, Judge, to say that because of Mr. Fleming's dissertation, I was persuaded that I was wrong.

THE COURT:

Off the record.

(Thereupon a discussion was had between the Court and counsel off the record.)

MR. CORRIGAN:

For the record,

your Honor, Mr. Tolliver would be persuaded to make a different statement relative to the

prosecution making light of the fact that the FBI investigated this matter when I inform you that we have not made light, neither light nor heavy of the fact, we have made no mention of it.

THE COURT: Wait a minute.  
Wait a minute.

MR. TOLLIVER: On the contrary,  
the defense has --

THE COURT: Just a minute.  
We will look at this citation. We need no further words in the record.

(Thereupon a discussion was had between the Court and counsel off the record.)

THE COURT: The ruling of the Court is that the witness shall not be required to testify. You are excused.

(Witness excused.)

MR. FLEMING: Your Honor, in light of this case that has been submitted by the Federal Government, Touhy versus Rogers, under 340 US, we request that the Federal Bureau of Investigation be instructed to turn over its records to the Court so that the Court may determine whether or not these records and photographs are relevant and material to the issues in this



case.

THE COURT: What is the position of the Department with reference to the turning over any reports?

MR. MILLER: We cannot. We have been instructed by the Attorney General not to. We will not, respectfully, sir.

MR. FLEMING: The Court has the right under this case to demand that.

THE COURT: It doesn't say that. The headnote doesn't.

It is my ruling that the witness shall not be required to testify.

(Thereupon proceedings were resumed in the presence of the jury as follows):

THE COURT: Do you have another witness?

MR. FLEMING: Mr. Andrew Wright.

- - -

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness ANDREW WRIGHT, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Wright, will you speak up so everyone on the jury and in the court room can hear what you are saying and tell us your full name and address?

A Andrew Wright, 11710 Phillips.

Q And are you married or single?

A Married.

Q What is your occupation?

A Nursing assistant, VA Hospital.

Q How long have you been so employed?

A 13 years.

Q Calling your attention to the 23rd of July, 1968, did you have occasion to visit the area of Lakeview and Auburn-dale?

A Yes.

Q And about what time of day or night was it when you were in this area?

A Oh, it was about a quarter to nine.

Q And who was with you?

A My wife.

Q Were you on foot or were you driving?

A Driving.

Q And where were you going?

A Well, we were -- we were trying to get home. We got in a traffic jam on 123rd and Superior.

Q What happened?

A Well, the special policeman was there and he said, "Where do you live?"

I said, "On Phillips."

He said, "Well, go down Lakeview and you can go through Euclid."

I said, "Okay."

Q What happened after that?

A Well, I turned my car and I was going towards Euclid and I got about halfway down when bullets from ground level started hitting me from both sides.

Q Where were you when these bullets started to hit you?

A I was driving in my car.

Q About what location? Do you want to step down?

(The witness left the stand and went to the aerial map.)

Q Now, this is State's Exhibit 66. It is in the evidence and it has been testified that Superior is in this direction (indicating). This direction is Euclid

(indicating). This is Lakeview Road and this is Auburndale Road (indicating).

And can you tell us about where you were when these bullets started to come toward your car? Stand over here so the jury can see the map.

A Well, it was dark and I was about -- just a little bit past the Lakeview Tavern.

Q This is the Lakeview Tavern right here (indicating).

A Yes, I was about there, when -- just past it, when bullets started hitting me from ground level from both sides.

Q All right. And what, if anything, what was the condition of light or darkness at this time?

A It was about twilight. The sun -- just the sun going down.

Q What was the condition of the street lights at that time?

A They were out.

Q And did you see any cars around the area?

A Yes.

Q Police cars?

A Yes, there were a few, but I didn't know what was going on and, as I said, before I knew it, bullets started hitting me from both sides. I had my wife get on the floor boards.

Q Did you stop or continue?

A If I'd stopped, there was so much confusion, I figure I wouldn't be here today.

Q What did you do after the bullets started coming into your car from ground level?

A I had my wife stay on the floor boards, and I kept on driving until I got to Euclid and Lakeview, where the East Cleveland police stopped me and wondered how did I make it through.

Q All right. And did you have any conversation with the East Cleveland police at that time?

A The only thing they wanted to know, how did I get through, where was I going, who let me through?

I told them a special policeman let me through, because I didn't even know what was going on.

Q You may resume the stand.

(Witness resumed the stand.)

Q Now, after this was over, did you look at your car?

A Yes. It was completely demolished.

Q What kind of weapons was it that you heard from the ground level, hitting your car?

Was it automatic, semiautomatic?

A It was all kinds. It was just like being in a war zone. I didn't have time to stop; I was trying to get out of the area. But everything was hitting me from the

ground level up. There was nothing on my roof on the car. All of it was windows and everything.

Q Do you have a photograph of your car --

A Yes, I do.

Q -- as it appeared immediately after you were struck at Lakeview and Superior?

A Yes.

(Photograph handed to counsel.)

(Defendant's Exhibit VVVV was marked for identification.)

MR. CORRIGAN:

No objection.

THE COURT:

Mr. Fleming

suggested that they get a better photograph, which could be substituted for the one that they are handling here. I am sure that is satisfactory.

MR. CORRIGAN:

If he gets a --

THE COURT:

If he gets a print.

MR. CORRIGAN:

If he gets a print,

no objection; but if he gets a different one --

MR. FLEMING:

This one.

Q (By Mr. Fleming) Now, showing you Defendant's Exhibit VVVV, will you tell the Court and jury what that is?

A That is a picture of my car, after it was struck by these bullets.

Q And does this photograph fairly and accurately depict

this automobile as it was after it passed the area of the Lakeview Tavern?

A Yes.

Q And how many holes were in this automobile?

A It was completely demolished. It must have been anywhere from thirty to forty holes.

Q Were either you or your wife struck from any of these bullets that flew into the car?

A I got a little scar from a glass flying. We don't know how, but I guess the good Lord was with us.

MR. FLEMING:

All right.

We offer Defendant's Exhibit Quadruple V into the evidence, your Honor.

MR. CORRIGAN:

No objections.

MR. FLEMING:

With the stipulation we may exchange it for another photograph.

THE COURT:

It may be admitted.

(Defendant's Exhibit VVVV was received in evidence.)

Q (By Mr. Fleming) After you met the East Cleveland police, what happened with regard to this incident?

A Well, it seemed to be a lot of confusion. So the East Cleveland police put me in their car and said, "Well, we can't get you home," so I had to stay in that area, and approximately until maybe about 3:30 that morning.

there was that much confusion.

Q And what happened after that?

A Well, I had to -- had to hail a ride to get home, and immediately after that I complained to the safety director.

Q Now, was your wife with you during all this time?

A Yes, she was with me.

Q Until 3:30 in the morning?

A Yes.

Q When you say you complained to the safety director, to whom did you make a complaint?

A Mr. Frank Moss.

Q How long after your car was shot up was it before you made this complaint?

A I think it must have been maybe about maybe a week, maybe four or five days to a week.

Q Where did you go to make this complaint?

A City Hall.

Q And who was present at the time that you made it?

A There was a recorder, court recorder, Mr. Frank Moss, myself and my wife, and another gentleman, I don't know his name.

Q And as you told these officers what happened to you, was it taken down by the court reporter?

A Yes. I told them I thought it was police



negligence.

Q And after this was taken down, was a paper typed up for you to sign?

A He told me that they would give this whole case over to the law --

MR. LAURIE: Objection.

Objection.

THE COURT: Objection sustained.

Q (By Mr. Fleming) You can't tell us what was told you. But did you later sign a paper that was typed up as a result of your having told them what happened?

A Yes -- nothing happened except the law department was getting --

MR. LAURIE: Objection.

THE COURT: There really wasn't any question.

MR. FLEMING: You may inquire.

CROSS-EXAMINATION

BY MR. CORRIGAN:

Q Mr. Wright, have you ever been convicted of a state or federal offense?

A No.

Q With regard to going to the safety director's office,

did you go to his office or did you meet Frank Moss some place?

A I went to the office of the safety director, on the second floor, City Hall.

Q Who directed you to go there?

A My councilman.

Q Who is your councilman?

A Mr. Brown.

Q Did you file a claim for damages with the City of Cleveland?

A He said the law department would have to do that.

Q I see. But you were concerned with seeking compensation for your losses, is that correct?

A Yes.

Q What did you do with your automobile after that?

A It was demolished. I traded it in to Jim Connell.

Q You say it was demolished?

A Yes.

Q How much did you get on the trade-in?

MR. FLEMING: Objection.

MR. TOLLIVER: Objection.

THE COURT: Sustained.

Q Referring to Defendant's Exhibit Quadruple V, which you have testified is a picture of your automobile, what side of the automobile is depicted on that picture?

A The driver's side.

Q I believe you, sir, you testified that you were going in a southerly direction on Lakeview, is that correct?

A Towards Euclid.

Q You were coming from Superior and going toward Euclid?

A Yes.

Q So that the driver's side would be on this side (indicating), toward the top of the map?

A Yes.

Q So the holes that are depicted on the driver's side, of necessity, would have come from the east side of Lakeview, is that correct?

A I don't know which side it came from. I know it came.

Q Is it possible, sir, that the holes could come from the west side and land on the east side of the automobile?

A I don't think so.

MR. TOLLIVER: Objection.

MR. FLEMING: Objection.

THE COURT: Overruled.

Q You don't know. I think you indicated that when you went through this area, it was like a war zone?

A When those bullets started hitting me, yes.

Q Just like a war?

A When the bullets, they all hit me from ground level, and I understand that is where the police were. They didn't stop me. They didn't try to stop me, ask me anything. They just started shooting first. I think that's neglect.

Q Did you see who fired?

A Could you see if you were going through a zone like that? I just wanted to get out of the area.

Q Sir, I wasn't there.

THE COURT: Just answer the questions.

A I tried to save my life.

Q You couldn't see who was firing at your automobile?

A I didn't stop to see. I just tried to get out of the area, counselor.

Q How then can you tell us, sir, they were all from ground level?

A Because you can see from where the bullets hit.

They hit me from my tires on to the side and the glass.

Q Can you tell us approximately where along Lakeview Avenue, where did you get the greatest volley of bullets?

A Sir, I can't tell you that. I don't know. They were constantly coming.

Q When you say that, sir, back here (indicating) this is Beulah Avenue and Beulah Court. Was it before you got to Beulah Court?

A After I passed that.

Q After you passed that?

A Yes.

Q Was it before you got to Moulton or after you got past Moulton?

A It was about in the middle, as I told you, around when I passed that Lakeview Tavern.

Q Right in the middle?

A About that, I'd say, yes.

MR. CORRIGAN:

No further

questions of this witness.

REDIRECT EXAMINATION

BY MR. FLEMING:

Q Mr. Wright, can you tell us, was just the right side that is depicted in that photograph of your automobile, was that the only side that was damaged?

A Both sides.

Q What was the condition of your four tires after you arrived at Euclid Avenue?

A Flat.

Q All four of them?

A No, only one tire had air; all the other three were flat, shot.

Q Describe to the Court and jury the condition of your car, the side that faced Moulton Avenue, on that side of the street (indicating).

A It also had holes in it.

Q Now, did you bring your wife with you today?

A Yes, I did.

Q She was -- when did she duck down? Did she duck down immediately after the shooting started?

A Yes, she hit the floorboards. I told her to hit the floor boards.

Q Did she stay on the floor?

A Yes.

Q Until you arrived at Euclid and Lakeview?

A Yes, yes.

MR. FLEMING:

You may inquire.

MR. CORRIGAN:

No further ques-

tions.

THE COURT:

You are excused,

Mr. Wright.

(Witness excused.)

MR. TOLLIVER:

Mr. Thompson.

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness ROBERT THOMPkins, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TOLLIVER:

Q Keep your voice up so that the last juror can hear. State to the Court your name and your address, please.

A Robert Thompkins.

Q Please speak up louder.

A Robert Thompkins.

Q Where do you live?

A I live at 1502 Lakeview.

Q Are you in school?

A Yes.

Q What grade are you in?

A Eleventh.

Q How old are you?

A Eighteen.

Q Now, you say you live at 1502 Lakeview?

A Yes, sir.



Q Would you step down a minute, son.

(Witness left the stand and went to the map.)

This is an aerial photo. Auburndale, Lakeview, Moulton, and Leulah. Here is the Lakeview Tavern (indicating).

Now, can you show us your house on this map? This is Superior here (indicating).

A Yes.

Q That is the bar there (indicating).

A You can't see, but back over here (indicating).

Q Back over there?

A Right.

Q While you were there on the 23rd of July, were you in that area that night?

A Right over here (indicating).

THE COURT:

Nobody can hear him.

A In front of my house.

THE COURT:

I can't hear him;

and if I can't, the jury can't.

Q You were in your house?

A Yes.

Q Do you work?

A Yes. I work right at -- the Brown's delicatessen.

Q Where is Brown's delicatessen?

A 1502 Lakeview Road.

Q Okay. You may resume the stand.

(Witness resumed the stand.)

Q Now, do you live above the delicatessen or what?

A See, it's a store and a house together. I live in a house.

Q I see. What hours do you work in that store?

A Let's see, I was working after school, around 6:00 to -- I'd say around -- it was in the summertime, I stayed all day. I was working all day.

Q When you say "all day," what hours do you go to work and what hours did you get off, in July of that year?

A 9:00 until -- until the store closed, around 9:00 - 9:30.

Q I see. Now, calling your attention to the evening of the 23rd, July, 1968, did you see anything unusual happen at that particular time?

A Yes, I was --

Q Tell the Court and jury what you saw.

A Well, I was down -- I was standing by the police car and then this car come around Lakeview corner, and someone screamed, hollered "They're getting away."

Then the police started shooting at the car until they got up to Euclid.

Q When you say they hollered -- let me go back a little further. You say you were standing by a police car?

A Yes.

Q Where was this police car parked?

A There was two police cars. I was at the corner.  
It was parked right at Lakeview and Ashbury.

Q Lakeview and Ashbury?

A Yes.

Q How long had that police car been there, if you know?

A It had been there ever since it started.

Q When you say "started," you mean when the shooting  
and so forth started?

A Yes.

Q It was parked across the street from the delicatessen  
or in front of the delicatessen?

A No. In front of the delicatessen.  
There was police cars on the other side.

Q I see. And you say a car came around the corner?

A Yes, sir.

Q About what time was this, if you can recall?

A I don't think I recall the time.

Q Can you describe what kind of a car it was?

A Chevrolet.

Q Do you remember what color?

A A red.

Q A red Chevrolet?

A Yes.

Q Do you remember what year it was?

A Oh, about nineteen sixty -- around about '64 - '65.

Q All right. Did you see who was in the car?

A There was two people.

Q Can you tell whether they were two men, two women, or two children?

A It was a man and a woman.

Q A man and a woman?

A Yes.

Q Was it a colored man or white man?

A They were colored.

Q Both were colored?

A Yes.

Q Tell us again what you heard and what you saw?

A I heard -- I was standing at the police car, and then a car come around the corner. Someone screamed, "They're getting away," and they started shooting at the car, the police started shooting at the car.

It went up on Euclid there. Then I went up on Euclid to see had they got hurt or something. They didn't get shot or nothing, but little cuts of glass from the windshield.

Q And did you have a chance to talk, or see the people that were in the car?

A I just seen them. I didn't talk to them or nothing.

Q You didn't talk to them?

A No, sir.

Q What happened to the people that were in the car?

A They were still staying when I got there, and left.

Q How long did you stay up there with the people in the car?

A About ten, five or ten minutes.

Q Then you left and went back?

A Yes.

Q And how many police did you see shooting at the car, if you can recall?

A I don't know, I don't know.

Q But you are sure it was the police that were shooting at the car?

A Yes, sir.

MR. TOLLIVER:

You may have the

witness.

Q (By Mr. Tolliver) Oh, by the way, have you seen those people, that were in that car, since?

A I don't really know.

MR. TOLLIVER:

Okay.

- - -

CROSS-EXAMINATION

BY MR. CORRIGAN:

Q Sir, I think you indicated that you saw two police cars?

A It was two police cars on this side of the street, on Lakeview, right there (indicating).

Q Where on Lakeview?

A Right in front of Lakeview and Ashbury, in front of the delicatessen.

Q In front of Lakeview and Ashbury, is that right?

A That's right.

Q You saw two police cars?

A Yes.

Q What time of the night or day was this?

A It was in the evening, around, oh, 9:00.

Q About 9:00 o'clock?

A A quarter of 9:00, about that.

Q Then you said you saw a red Chevrolet driving, in what direction?

A It was going up; coming from Lakeview, going to Euclid.

Q Going toward Euclid?

A Yes.

Q Then you saw the police officer shoot at this red

Chevrolet?

A Right.

Q What happened to the red Chevrolet?

A It was shot up, flat tires, one window was shot through.

Q Was this shooting after the other shooting that you heard down on Auburndale and Lakeview?

A It was afterward. See, it had quieted down for a while.

MR. CORRIGAN:

Okay.

Things have quieted down for a while.

No further questions.

MR. TOLLIVER:

Nothing further.

THE COURT:

You are excused.

(Witness excused.)

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(Thereupon a discussion was had between the Court and counsel, outside the hearing of the jury, and off the record.)

THE COURT:

Ladies and gentlemen, we will take our morning recess at this time.

When you are outside the courtroom, don't talk with anybody, don't let anybody talk to you about the case.

(Thereupon a recess was had.)

THE COURT:

Be seated.

Ladies and gentlemen, I have been in conference with counsel with reference to our procedure, what yet to do as far as the immediate time is concerned, and it has been called to my attention that there are several subpoenas issued for the appearance of various witnesses this morning, who just as yet have not appeared.

Now whether or not it was that the subpoenas were not actually served or there was some misunderstanding with reference to them, they may not have been actually served, it is not because of the failure of anybody to get the subpoenas out, but occasionally people move and at times subpoenas are not necessarily handed individually to somebody, but handed to someone in their home; but to make a long story short, we are out of witnesses right now, and I wanted to make the explanation to the extent that it apparently wasn't through lack of diligence on anybody's part. It is just one of these things that happen; so we have no proceedings to continue with immediately.

It would probably be better if we



let you know now and obviously you can't do anything except wait for lunch and you will do that.

Now I suppose there might be some explanation that would be proper with reference to the first proceedings we had in Court. You may have noticed that the young man stood up and wanted to say something.

Normally, something like that doesn't happen in Court. Of course, as I indicated, I knew who he was and knew what the proceedings were. What he had done, he had interposed an objection upon a ruling of the Attorney General with reference to the testimony of Mr. Cusick; and we went outside and I sustained the objection; and the matter was considered a matter of law and disposed of -- so you don't have any idea that people jump up in Court and make objections and we proceed as though nothing happened.

This was what happened and as of now we must necessarily excuse you from the court room, and you will arrange to go to lunch at whatever time it is that you normally do.

When you are outside of the court room, again, don't talk with anybody and don't let anybody talk with you regarding this case.

As far as court is concerned, the Court will recess until 1:15 this afternoon.

(Thereupon, the hearing was adjourned to 1:15 p.m., Monday, May 5, 1969, at which time the following proceedings were had):

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MONDAY AFTERNOON SESSION, MAY 5, 1969 1:30 P.M.

THE COURT: Be seated, please.

MR. TOLLIVER: Judge, we would like permission to substitute Defendant's Exhibit Quad V for the original of the particular exhibit.

THE COURT: Just withdraw the other one and just show this one as being the original

MR. TOLLIVER: All right.

MR. CORRIGAN: No objections.

(Substitution made as agreed upon for Defendant's Exhibit VVVV.)

MR. TOLLIVER: May we have permission to pass it among the jury?

THE COURT: Yes you may.

(Whereupon Defendant's Exhibit VVVV was passed among the jurors.)

THEREUPON, the Defendant, further to maintain the issues on his part to be maintained, called as a witness GLENN BILLINGTON, who, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. TOLLIVER:

Q Will you state your name to the Court, please?

A Glenn Billington.

Q Spell your last name.

A B-i-l-l-i-n-g-t-o-n.

Q And where do you live, Mr. Billington?

A Cleveland, 12007 Hamlin Avenue.

Q What is your particular business or occupation?

A I work for the Legal Aid Society of Cleveland, Assistant to the Director.

Q Who is the Director?

A C. Lyonel Jones.

Q How long have you been in that capacity?

A Since December 1, 1967.

Q Are you presently in school?

A I am a third year student at Cleveland Marshall Law School.

Q And studying toward a law degree, is that right?

A Yes.

Q Now, tell the Court and jury what do you do for the Legal Aid Society?

A I am Assistant to the Director, primarily responsible for administrative details, budgeting, personnel relations, purchasing, managing the office.

Q Now, do you know this gentleman, Mr. S. J. Young?

A Yes.

Q What is his capacity?

A He is our investigator in the Public Defender's Office, which is one of the branches of the Legal Aid Society.

Q I see, now calling your attention to the 29th day of March, Mr. Billington, did you have occasion to accompany Mr. Young to the County Jail?

A Yes, that was a Saturday morning, I believe.

Q Saturday morning?

A Yes.

Q Did you see any individual at that time, that particular time?

A Yes, Mr. Young and I went upstairs and talked to a Curtis Martin.

Q A Curtis Martin?

A Yes.

Q And what was the purpose of your talking to Curtis Martin?

A Well, Mr. Young asked me to accompany him because he had been told that Mr. Martin had something that he wanted to say. I wasn't -- I didn't know what it was, but he asked me to come along with him because he wanted someone to be there to corroborate what Mr. Young heard and what this Mr. Martin was going to say.

Q All right, tell the Court and jury how did you get upstairs to see Curtis Martin?

A We came in and went downstairs to the visitors' desk and got the little card and signed in and took the elevator upstairs.

Q Do you recall what floor Mr. Martin was on?

A No, I don't; I think it was the 8th, but I am not sure. It is the one -- we were in the room where it has the dentist's chair.

Q Now, do you recall what time of day this was?

A We met at the coffee shop across the street at 9 o'clock; it was probably 9:30 by the time we got here.

Q In the morning?

A Yes.

Q And on the 29th day of March, which was a Saturday?

A I am not sure it was the 29th, but it was a Saturday morning.

Q In March?

A In March.